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Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable JEFF MERKLEY, a Senator from the State of Oregon.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

How glorious You are, O God! How majestic are Your works. You make Your judgments known from Heaven and no earthly power can withstand Your might. When we remember Your great deeds in our history, we look to the future with confident hope, for Your indignation is only for a moment, but Your favor is for a lifetime.

Instruct our lawmakers in Your ways. Teach them to number their days that they may have hearts of wisdom. Teach them to believe Your goodwill toward them that they may obey You with joy. And teach them to serve others that they may honor You.

Lord, during this holiday season, remind us to strive for peace on Earth and let that peace begin in our hearts.

We pray in Your loving Name. Amen.

NOTICE

If the 111th Congress, 2d Session, adjourns sine die on or before December 23, 2010, a final issue of the *Congressional Record* for the 111th Congress, 2d Session, will be published on Wednesday, December 29, 2010, in order to permit Members to revise and extend their remarks.

All material for insertion must be signed by the Member and delivered to the respective offices of the Official Reporters of Debates (Room HT–59 or S–123 of the Capitol), Monday through Friday, between the hours of 10:00 a.m. and 3:00 p.m. through Wednesday, December 29. The final issue will be dated Wednesday, December 29, 2010, and will be delivered on Thursday, December 30, 2010.

None of the material printed in the final issue of the *Congressional Record* may contain subject matter, or relate to any event that occurred after the sine die date.

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By order of the Joint Committee on Printing.

CHARLES E. SCHUMER, *Chairman.*

PLEDGE OF ALLEGIANCE

The Honorable JEFF MERKLEY, a Senator from the State of Oregon, led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. INOUYE).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, December 17, 2010.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

appoint the Honorable JEFF MERKLEY, a Senator from the State of Oregon, to perform the duties of the Chair.

DANIEL K. INOUYE,
President pro tempore.

Mr. MERKLEY thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. REID. Mr. President, following leader remarks, if any, the Senate will proceed to executive session to resume consideration of the New START treaty. The treaty is open to amendments. Senators are encouraged to come to the floor to offer and debate their amendments or make statements regarding this most important piece of legislation.

I would like to begin today having votes on the amendment that has been filed. As a reminder, last night I filed cloture with respect to the House messages on the DREAM Act and the don't ask, don't tell repeal.

The first cloture vote will occur tomorrow morning fairly early. If cloture is not invoked on the DREAM Act, the Senate will proceed immediately to a cloture vote on the don't ask, don't tell repeal. Senators will be notified when any votes are scheduled.

MEASURE PLACED ON THE CALENDAR—S.J. RES. 42

Mr. REID. Mr. President, I have a matter I believe is at the desk, S.J. Res. 42. I think it is due for a second reading.

The ACTING PRESIDENT pro tempore. The clerk will report the joint resolution by title for a second time.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 42) to extend the continuing resolution until February 18, 2011.

Mr. REID. I object to any further proceedings with respect to this joint resolution.

The ACTING PRESIDENT pro tempore. Objection is heard.

The bill will be placed on the calendar.

FINISHING THE SESSION

Mr. REID. Mr. President, the path is clear that we can finish our work relatively soon. As I indicated earlier, we are going to have two votes in the morning. Even if cloture is invoked on one or both of those matters, there is no reason we couldn't complete that work tomorrow. There is no reason we would have to extend that into Sunday. We will be happy to do that because we are going to work every day—every day—until we finish this legislative session.

If we get those two things out of the way, we have minimal things left to do. We have to do the health care as it relates to 9/11. Of course, we have to complete the funding for the government. We know what happened last night, so we are looking forward to doing the CR. It is a tremendous disappointment as to what it doesn't do for our country, but that is where we are. The Republicans made that choice, and the American people need to understand that.

I was told 6 or 7 days are needed to debate the START treaty. That is easy to do. We can complete that very quickly. It all depends on our friends on the other side of the aisle, whether they want to continue, as they have this whole Congress, throwing roadblocks in front of everything we do to move forward to a culmination of this debate. We have done some very important things during this Congress, but there is nothing—nothing—more important than the START treaty because it has ramifications far greater than our own country. So I hope everyone will be patient. We know this is the holiday season, but this is something we are going to complete before we leave. I have had conversations with a number of my Republican friends, and they understand the seriousness of this matter.

As I indicated yesterday, the ranking member of the Foreign Relations Committee, RICHARD LUGAR, has been an advocate for this for a long time. We know our chairman, Senator KERRY, believes fervently in this legislation. So I am going to do everything I can to expedite the other matters, and that is the reason cloture was filed on these two issues last night.

I repeat, there is no reason we can't complete everything by tomorrow in the evening. Leaving the days we have spent on this already, which are three in number, we could do Sunday, Monday, Tuesday; that is 6, 7 days. We are set to complete this very quickly. It is all up to people who believe in this to come down and make their statements and to support amendments for the strengthening of this and oppose those that don't. So I hope everyone would understand the importance of the work we have.

The issues dealing with the DREAM Act, I have given many speeches on this floor dealing with the importance of that. It is legislation supported by our Secretary of Defense and the Chairman of the Joint Chiefs. They know how important it is to have quality people in the military. They know we are taking into the military today people who have been convicted of crimes, people who have not graduated from high school, and this would certainly be a way of bringing into the military people who really want to serve their country. So I hope we can get that done.

Don't ask, don't tell is another issue that is certainly ripe for completion. I appreciate the work of the House in completing that. There is no reason, no matter how they may dislike that legislation, to stand in the way of the START treaty. The don't ask, don't tell, as we all have seen from reading the press, we have enough votes to pass that. It passed in the House for the second time. It picked up 45 votes from the first time they voted on it, so it is gaining strength.

The one reason I think it is so important to do that, to complete the repeal of don't ask, don't tell, one of the problems we have had with the issue of abortion around the country is that it has been determined by the courts not the legislature. There have been numerous articles written about how that is one problem that has caused so much consternation with the abortion issue—because it should have been handled by the legislature. I feel the same way about don't ask, don't tell. We can see the courts moving in on this. We should have the courage to do what is right for the American people and do it legislatively, not leave it to the courts.

The only thing I didn't mention is we have a lot of nominations I am working with the Republican leader on to complete. One person we are concerned about is Jim Cole, the Deputy Attorney General. That is the No. 2 person at the Justice Department. It is a shame it has taken so long to complete.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

EXECUTIVE SESSION

TREATY WITH RUSSIA ON MEASURES FOR FURTHER REDUCTION AND LIMITATION OF STRATEGIC OFFENSIVE ARMS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session to resume consideration of the following treaty, which the clerk will report.

The assistant legislative clerk read as follows:

Treaty calendar No. 7, treaty with Russia on measures for further reduction and limitation of strategic offensive arms.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I note the minority leader is here and he may wish to use his leader time now. I understand that.

Mr. MCCONNELL. I would say to my friend from Massachusetts, I was going to make my opening remarks. I believe Senator LEMIEUX is making his farewell address, if you could give us a chance.

Mr. REID. I note the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KERRY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KERRY. Mr. President, as soon as the leader wants to take the floor, I will see to that. I am not trying to hold the floor. I just wish to say to colleagues that we are now beginning day 3 of consideration of the START treaty. We have not yet voted on or moved on any amendment. So I hope colleagues will take advantage of the extra time we now have, given the events with respect to the omnibus/CR, and we have an opportunity today to quickly get there.

Needless to say, at some point, particularly in the absence of amendments, there will be a higher motivation to move to a cloture vote to move to bring this to a close if that is what it is going to take. We are ready to vote on our side of the aisle. We are ready to vote today on the START treaty.

So I wish to emphasize to colleagues, if there are amendments, now is the time to bring them to the floor, and I hope we can do that. We look forward to a good, robust debate in an effort to try to bring this matter to a close.

I yield the floor to the minority leader at this time.

RECOGNITION OF THE REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

GOOD NEWS

Mr. MCCONNELL. Mr. President, I am pleased to report two pieces of good news out of Congress today. After 2 years of policies that lacked public support, the tide is beginning to turn.

Today the President will sign a bill that ensures no American—not a single one—gets a tax hike on January 1. Republicans have fought hard for this legislation. Up until last week, most Democrats resisted. But in the end the American people were heard. That is a welcome change from the last 2 years.

The American people have finally been heard on another matter as well. Yesterday, Republicans united against a 2,000-page, $1.2 trillion spending bill that Democrats were trying to ram through Congress in the final hours of this session. The goal of this bill was perfectly clear. Its purpose was to lock in for another year the same big government policies voters overwhelmingly rejected on November 2.

By approving this bill, we would have helped cement for another year massive increases in spending and helped pave the way for a health care bill most Americans are asking us to repeal.

Once those details became clear, it was imperative that we reject it.

The voters don't want us to wait to cut spending and debt and fight the health care bill next October—they want us to do these things immediately.

So I am proud of my conference for sticking together on these principles.

Here in these final days of the 111th Congress we have held the line on taxes.

We have held the line on spending.

Next, we turn to cutting spending and cutting debt.

The American people are seeing change here in Washington.

They can expect more in the New Year.

TRIBUTE TO RETIRING SENATORS

GEORGE LEMIEUX

Mr. MCCONNELL. Mr. President, I rise to pay tribute to a man who has made the most of a short tenure here in the Senate. Shortly after GEORGE LEMIEUX was sworn in last September he said that his goal was to get years of work done in 16 months. And I don't think there is any doubt the junior Senator from Florida made good on that promise.

In his short tenure, GEORGE has served the people of Florida with honor, integrity, and purpose. And while he may be leaving us soon, I am certain this will not be the last time we hear from this incredibly gifted man.

GEORGE grew up in Coral Springs, FL, or ''God's country'' as he refers to it. He went on to college at Emory, where he graduated magna cum laude and Phi Beta Kappa. As an undergraduate, GEORGE interned for Congressman Clay Shaw and Senator Connie Mack. And then it was on to Georgetown for law school and then private practice back home in Florida.

GEORGE got his start in local politics as chairman of the Broward County Young Republicans. He then went on to make his own bid for the Florida State house in 1998, knocking on more than 10,000 doors in the heavily Democratic district he was hoping to represent.

Despite GEORGE's own campaign loss, he impressed a lot of Republicans and was elected chairman of Broward County Republican Party. In 2003, he was asked to serve as deputy attorney general. And GEORGE answered the call, leaving the law firm he was working in at the time. As deputy attorney general, GEORGE was responsible for a team of 400 lawyers. He also argued and won a death penalty case that earned a unanimous ruling from the U.S. Supreme Court.

GEORGE would go on to serve as the chief of staff to Florida Governor Charlie Crist overseeing the Governor's legislative agenda, policy initiatives, and messaging.

After a year as chief of staff, GEORGE wanted to return home to his young family. ''I've got three little men at home,'' GEORGE said at the time, ''and a wife who's a saint.''

Despite the demands of work, GEORGE has always made sure not to lose sight of his first priorities. And we have all seen and been touched by the special pride he has for his wife Meike and their three boys Max, Taylor, and Chase, and their newborn daughter Madeleine.

After a couple of years of private practice, GEORGE got the call again to serve when Mel Martinez announced he was retiring from the Senate.

And from the moment he got here, he was determined to do the best job he could. He wasn't going to be a placeholder or a seat warmer, as he put it. Floridians expected vigorous and principled representation, and that is exactly what they got. At the time of his appointment, GEORGE may have been the youngest sitting Member of the Senate, but that didn't stop him from rolling up his sleeves and getting to work. He made an immediate impact by inserting himself into the health care debate as an eloquent and passionate opponent of greater government intervention and an enemy of waste, fraud, and abuse. And the first bill he introduced was the Prevent Health Care Fraud Act of 2009, which proposed a more aggressive approach to recovering the billions of dollars that are lost each year to health care waste, fraud, and abuse.

GEORGE has been deeply involved in efforts to raise awareness about the national debt and promoting free trade. He has been involved in Latin American and Cuban policy. And he was a leader on the gulf oilspill.

He has worked tirelessly to hold BP and the administration accountable fo the cleanup and the protection of Florida's beaches. He has been an outspoken critic of the bureaucratic red tape that kept more skimmers from cleaning up the Florida coast. And through his relentless efforts at exposing this lax response, he was able to get dozens of skimmers sent to the Florida coast for cleanup. As GEORGE put it at the time, ''We must ensure that BP does not abandon the hard-working families, businesses, and local communities devastated by the spill once the media leaves . . .'' After just a few months of on-the-job training as U.S. Senator, GEORGE had found his voice in the midst of the largest environmental disaster in U.S. history.

Upon arriving in this Chamber, George has always maintained a pro-business, anti-tax, and anti-waste voting record, which has made him the recipient of several awards. In August of this year, GEORGE was recognized as the ''Taxpayer Hero'' by the Council for Citizens Against Government Waste for his work to expose and end wasteful government spending. The following month, GEORGE was honored the ''Guardian of Small Business'' by the National Federation of Independent Business, as well as the ''Tax Fighter'' award by the National Tax Limitation Committee.

While GEORGE's impressive tenure in this Chamber has been brief, we enjoyed getting to know him and working

with him to advance the best interests of Floridians and all Americans. He has been one of our sharpest and most passionate spokesmen on some of the most important issues we face. He is smart, capable, and willing to work hard. He should be proud of his service. I know I have been proud to call him a colleague and a friend.

We thank him for his impressive service to this Chamber, the people of Florida, and the Nation. And we wish him and his young family all the best in what I hope will be many years of success and happiness ahead.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, again, I repeat that we are beginning the third day of debate on the START treaty. Senator LUGAR and I are anxious to begin debate on an actual amendment. We are prepared to do so as soon as colleagues decide to come to the floor and bring us those amendments. I will repeat that given the press of business and the holidays, we are sort of in a place where we want to afford people that opportunity, but if people don't want to take advantage of that, we are certainly prepared to move to a vote.

I emphasize that there are no amendments from colleagues on the Democratic side. We are prepared to just vote on this treaty. I think perhaps we are getting a signal that other colleagues may want to likewise try to move to conclude this treaty fairly rapidly. Certainly, Senator LUGAR and I are prepared to do so. Senator LUGAR has pressed me to try to see if we can proceed with respect to the procedural votes that would bring us to that point. I have suggested that we ought to perhaps give that a little more time. We are prepared to do so. At some point, I think it will be appropriate for us to do that.

I know Senator LUGAR wants to speak with respect to some of the points that were made yesterday. First, would the Senator be agreeable to having Senator FRANKEN speak?

Mr. LUGAR. Mr. President, I am delighted to delay my remarks to listen to other Senators who have come to the floor. We are eager to try to expedite all of the statements of our Members.

Mr. KERRY. Would the Senator agree with me that we have been open for business for about 2 days now, and this is the third day, and we need to get to a substantive amendment or perhaps to move to close off the debate and have our last 30 hours?

Mr. LUGAR. I agree with the chairman. I hope that, having raised that issue, Members will come to the floor promptly, amendments will be offered, and votes will be taken.

It appears to me that a number of our colleagues are prepared to conclude business, including our majority leader and the Republican leader. I think that is the sentiment of the body. As a result, given the 9½ hours of open time yesterday and a number of good statements, we did not progress toward any resolution of either amendments or the treaty. I think today we must do so. I support action to accelerate that.

Mr. KERRY. I emphasize that if colleagues want to be here, the majority leader has told me he will keep the Senate open Saturday, Sunday, through the weekend, in order to do so. So it is our choice. But I think, in lieu of complaints about the rapidity with which the holiday is arriving, we might spend time on an actual amendment or votes.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota is recognized.

Mr. FRANKEN. Mr. President, may I ask Senator KERRY one question. When I was presiding yesterday, a Member rose in opposition to the treaty. He was complaining about it coming up now. He pointed to when we got the treaty from the White House, which was in May; is that right?

Mr. KERRY. Mr. President, that is correct, I say to the Senator from Minnesota. I think it was April that it was signed and May when we actually received the submission of the documents themselves.

Mr. FRANKEN. I ask the chairman, when this Senator was presiding, another Senator was on the floor saying that we got this in May, and now it is close to the end of the year, and it is outrageous that we are doing it now.

I ask Senator KERRY, didn't he accommodate those on the other side of this issue several times when they asked for delay themselves?

Mr. KERRY. Mr. President, the Senator is absolutely correct. There was a series of requests from Senators on the other side—which is totally appropriate. I am not suggesting that was inappropriate. I think the record needs to reflect that on those multiple occasions when people requested time in order to be able to prepare, we gave them time.

Senator LUGAR was importuned some 13 times to specifically slow down the treaty process in order to allow for more time to be able to address the modernization process, which is outside the treaty but not unlinked from it when you are making judgments about this.

Senator KYL brought up some relevant omissions in that modernization process. That extra time allowed us to address that—I hope to his satisfaction but certainly to the improvement of an understanding of where we are proceeding and to increase the funds.

Then we delayed even further when the committee was prepared to vote. There was a request for delay, and we delayed that vote.

Then we delayed even after that in order to avoid the appearance of politicizing the treaty for the election. So we literally took it out and said: OK, we will do it after the election, which is why I think people feel so adamantly that now is the time.

There have been an appropriate series of delays. You cannot come in and ask for delay and then say: Oh my gosh, we are pushed up against the calendar, and it is difficult to do it now—particularly since we are in day 3 and we have plenty of time to even exceed the amount of time in which we did START I.

I thank the Senator from Minnesota for clarifying that. I hope not to get locked into a discussion of process now or what happens when. Let's just do the substance of the treaty and show the country that we have the ability to, in a bipartisan way, meet the national security needs of our Nation. Again, I thank the Senator for his question.

Mr. FRANKEN. Mr. President, I thank the chairman for that clarification.

I rise to discuss missile defense and the New START treaty. Missile defense is one of the persistent areas of concern of the treaty raised by some of my colleagues. However, the reasonable questions that have been raised on the subject can be answered in a very straightforward manner.

The treatment of missile defense in the treaty is no cause to oppose it—quite the opposite. It should garner support for the treaty. Most of those who have raised concerns understand that longstanding Russian anxiety about our missile defense is misplaced. The purpose of our missile defense is not to undermine Russia's deterrent; it is to protect us from attack from the likes of Iran or North Korea. In fact, the Senator who raised the objection about it coming up now, after their request for delay, pointed that out, as if our side didn't understand that, for some reason.

This is longstanding U.S. policy and law across administrations and Congresses controlled by both parties, going back to at least the administration of George H.W. Bush.

Nothing in the treaty bars the development and deployment of missile defense from countering those very real threats from the likes of Iran and North Korea, nor does the treaty give the Russians any say over missile defense or any kind of veto over it.

The fact that we and the Russians remain at odds over missile defense is, to some degree, nothing new. It has not prevented overwhelming support for arms control agreements in the past, including this treaty's predecessor, the original START treaty.

A more radical strand of criticism argues that our missile defense should target Russian forces and should, in fact, seek to render Russian strategic forces useless. I won't have much to say about this criticism. In reality, it is criticism of the entire foreign policy consensus of the United States that has prevailed across party lines at least

since the end of the Cold War. Secretary Gates has spoken about the danger and the needless budget-busting expense of this perspective.

Setting this view aside, I want to focus on the more reasonable skeptics of the New START treaty. They have expressed concerns about each of the two mentions of missile defense in the treaty.

Article V, section 3 of the treaty states:

> Each party shall not convert and shall not use ICBM launchers and SLBM launchers—

That is submarine-launched ballistic missiles.

> for placement of missile defense interceptors therein. Each party further shall not convert and shall not use launchers of missile defense interceptors for replacement of ICBM and SLBMs therein. This provision shall not apply to ICBM launchers that were converted prior to signature of this treaty for placement of missile defense interceptors therein.

In other words, this provision prohibits the conversion and use of ICBM and SLBM launchers from missile defense interceptors and vice versa. However, it grandfathers the five missile silos at Vandenberg Air Force Base that have already been converted to launchers for missile defense interceptors.

Some have seized on this provision as a constraint on our missile defense. In reality, this provision effectively keeps missile defense outside the scope of the treaty—an objective that proponents of missile defense surely desire—at no real cost to us.

The ban on conversion of ICBM silos or SLBM launchers to missile defense is not a meaningful constraint. As LTG Patrick O'Reilly, Director of the Missile Defense Agency, testified, his agency has no plans and never had any plans to convert additional ICBM silos at Vandenberg. It is both less expensive and operationally more effective to build new ground-based interceptors. As General O'Reilly explained, replacing ICBMs with interceptors or adapting SLBMs to be interceptors would be ''a major setback to the development of our missile defenses.''

Substantial conversion of ICBM silos to missile defense would also be unnecessarily risky. Mixing interceptors with their ICBMs, especially in or near ICBM fields, would create an ambiguity problem for the Russians that risks tragic misunderstanding and devastating miscalculation. As GEN Kevin Chilton, Commander of U.S. Strategic Command, put it, seeing a missile launch, the other side may well be uncertain whether the launch was of an offensive or defensive missile.

Eliminating conversion of ICBM silos to defense is eliminating an unnecessary and undesirable option. That is why this so-called limitation on missile defense in article V of the New START treaty is—to use Senator MCCAIN's phrase from the committee hearings—not a meaningful one. Nevertheless, Senator MCCAIN and others have gone on to ask: Even if the limitation is meaningful in itself, why did the administration agree to include it in the treaty? Why did we make this concession on missile defense to the Russians?

The short answer is because we got a very good deal on missile defense, gaining several benefits by agreeing not to do something we were never going to do. That is pretty good negotiating I think.

The five converted missile silos at Vandenberg were a major source of contention in the context of the existing original START treaty. The Russians considered the conversion of those silos a compliance problem. They worried we would be able to convert them back and forth and undermine the treaty's central numerical limits on nuclear weapons. Apparently, in negotiations over this new treaty, the Russians pushed us to either undo the conversions to missile defense at Vandenberg or to count the silos under the New START central limitations on our arsenal.

We met neither of those Russian demands. Instead, in return for agreeing not to perform future conversions that are unnecessary and undesirable, we got the five existing missile defense silos at Vandenberg grandfathered. That means not only do they continue as defense silos, but Russia can no longer raise compliance complaints because we converted those silos to defense.

More importantly, with the conversion ban in place, our missile defenses are not subject to the treaty and its inspection regime. It is true we will exhibit the Vandenberg silos to the Russians on two occasions in the future, to assure them that the five converted silos remain unable to launch ICBMs. But by keeping Vandenberg out of the regular inspection and verification regime established by the new treaty, we deprive the Russians of a precedent for extending inspections to our defenses elsewhere. If conversion were allowed under the New START treaty, our missile defenses at Fort Greely, for instance, would potentially be subject to intrusive inspection by the Russians, to determine whether any such conversions had taken place.

Instead, with the conversion ban in place, Fort Greely and other missile defenses are off limits. I am not entirely sure why the Russians agreed to this, but it is very good for us, and our negotiators deserve praise for article V, section 3. We kept something of value—namely the existing Vandenberg converted silos—we cleared up a source of contention with the Russians, and we kept our missile defenses out of the New START regime, ensuring they are not subject to intrusive inspection by the Russians. In exchange, we agreed to ban something that, again, we were never going to do—further convert silos—because that would be unwise in the first place. In other words, article V is a good reason to support the treaty.

But I think the deepest concern of those who have raised questions about missile defense go to the treaty's other reference to missile defense in the preamble, together with the unilateral statement Russia issued on its own on the subject, and the so-called withdrawal clause in the treaty. The treaty's preamble recognizes:

> The existence of the interrelationship between strategic offensive arms and strategic defensive arms, that this interrelationship will become more important as strategic nuclear arms are reduced, and that current strategic defensive arms do not undermine the viability and effectiveness of the strategic offensive arms of the Parties.

I don't think anyone would deny that there is such an interrelationship. It is simply a fact. Nor does the preamble impose any obligation on us or on the Russians. It is not a binding limit on us, it requires nothing of us, and has no effect on the nuclear forces limited or not limited by the treaty.

Russia also issued a unilateral statement on missile defense at the time the treaty was signed. This is not part of the treaty and there is no binding force whatsoever on us or on the Russians. We issued a statement in response as well.

Russia's unilateral statement asserts the treaty can only be effective and viable where there is no qualitative or quantitative buildup in our missile defense system capabilities. That is not what the actual treaty's preamble says. Beyond that, the statement goes on to state that a missile defense buildup ''such that it would give rise to a threat to the strategic nuclear force potential of the Russian Federation'' would count as an extraordinary event under article XIV of the treaty. Article XIV includes the withdrawal clause, which is a standard part of arms control treaties. That clause makes clear that each country has the right to withdraw from the treaty if it judges that extraordinary events related to the treaty's subject matter have jeopardized its supreme interests.

That judgment cannot be second-guessed. Russia or the United States can always make a decision that its supreme interests require it to withdraw from the treaty under article XIV, and there is nothing the other party can do about it.

Some of my colleagues on the other side are troubled and worried that Russia will seek to leverage the mention of missile defense in the preamble and their unilateral statement to pressure the United States to limit our missile defense. These worries are without foundation. The preamble and unilateral statement add no force whatsoever to article XIV's power of withdrawal from the treaty. And as Secretary Gates testified, we know the Russians have hated missile defense for decades, since strategic arms talks started. There is no surprise here. So it is no surprise that the Russians say a fundamental change in the strategic balance between our countries because of missile defense might lead them to withdraw from the treaty.

But even that threat is far less than it has been made out to be by the treaty's critics. Even the Russians' own unilateral statements count only a missile defense buildup that ''would give rise to a threat to the strategic nuclear force potential of the Russian Federation'' as potential cause for withdrawal. Right now, we have 30 ground-based interceptors and the Russians will be able to deploy up to 1,500 nuclear warheads. It is accepted you need at least two interceptors for each threat missile.

We can and will continue to improve and deploy our missile defense without changing the fundamental situation with Russia. We can improve and expand our missile defense without threatening strategic stability with Russia. U.S. missile defense simply won't meet the Russians' own description of cause for withdrawal.

But suppose the Russians see things otherwise. What is it that the Russians are actually threatening? Are they threatening to withdraw from the treaty? No. Here is what President Medvedev said on April 9, the day after the treaty was signed, with reference to missile defense:

If events develop in such a way to ultimately change the fundamental situation, Russia would be able to raise this issue with the USA. This is the sense of the interpretation and the verbal statement made yesterday.

So if the Russians decide there has been a change in the fundamental situation on missile defense and offense, then they will ''raise this issue with the USA.'' Not withdraw from the treaty but raise the issue with us. That is a threat I think we can handle.

There is another reason not to be overly concerned. Around the time the United States and Soviet Union signed the original START treaty in 1991, the Soviet Union issued a unilateral statement on the antiballistic missile—or ABM—treaty, which language is virtually identical to the unilateral statement the Russians just issued in connection with the New START treaty.

As you know, the United States did withdraw from the ABM treaty, and Russia, the successor to the U.S.S.R, did not in turn withdraw from the original START treaty, as they threatened to do in the unilateral statement. Why would the Russians structure their unilateral statement exactly like their previous one if they wanted us to take the threat more seriously than the last one? The Russian objection to missile defense is well known and well understood. Their threat to withdraw from the treaty, such as it is, is not strong and the treaty's actual preamble imposes no obligation, restraint or pressure upon us.

The bottom line is that whatever decisions the Obama administration and Congress make on missile defense policy can and will be made independent of Russian threats. Frankly, our missile defense will not threaten strategic stability with them. The New START treaty doesn't alter our calculations on missile defense one iota.

If this is Russia's effort to pressure us on missile defense, it is very weak and easily resisted. I, personally, pledge to make judgments about our missile defense policy on the basis of technical and strategic considerations, entirely independent of Russian pressure, and I am sure my colleagues will do the same.

To sum up, the limitation on conversion of launchers in article V of the New START treaty is, in fact, a major success of our negotiators. In return for agreeing not to convert more ICBM silos, which we were never going to do anyway, we kept our missile defense out of the treaty and away from regular Russian inspection, and we put to rest Russian complaints about our existing converted silos. We got several things of value at very low cost.

Similarly, the mention of missile defense in the preamble and the nonbinding statement made by the Russians will not allow them to pressure us or exercise a veto on our missile defense. There is no meaningful pressure there. The threat is exceedingly weak and it is hard to see how my colleagues would take it seriously.

There is simply not a missile defense problem with this treaty, but don't just take it from me. In addition to the extraordinary support this treaty has garnered from foreign policy experts across the political spectrum, there is remarkable support amongst our defense leadership responsible for missile defense. This ranges from the Secretary of Defense to the Chairman of the Joint Chiefs, the service chiefs, the commander of U.S. Strategic Command responsible for our nuclear deterrent, and the Director of the Missile Defense Agency.

What is more, seven former commanders of Strategic Air Command and U.S. Strategic Command recently wrote to the Foreign Relations and Armed Services Committees to express their support for ratification of the treaty and specifically dismissed objections based on missile defense.

I hope we consider the resolution of ratification on the floor of the Senate as soon as possible. The substantive case for the treaty could not be stronger. It is time to bring it into force.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. CORKER. Mr. President, I have, I guess, a parliamentary inquiry. Maybe the Senator from Massachusetts, through you, might answer. I think we are at a point in time where it is time for amendments to be offered. I encourage people, on our side of the aisle in particular, if they have amendments, to offer them. At present, I have no amendments personally. I was able to be involved in the resolution of ratification that Senator LUGAR and I drafted early during the committee. But I know a number of my colleagues have been wanting to offer amendments. It seems like there is a lot of time for that to occur today. That ought to be forthcoming so we can get on.

I have some comments I would like to make about the treaty and I guess concerns I have that we would introduce in the middle of this debate some political issues regarding the military that are unnecessary at this moment in time. That can be said later. But it is my hope we can move this along.

I would like to ask the Senator from Massachusetts, through the Chair how the amendment process is working. I know there has been some question on our side about whether amendments to the treaty and amendments to the resolution itself can be offered at the same time. I think it would be helpful—because everybody is impatient. They are wanting to see the amendments come forward and let's move forward with this process. It would be good to know how that process actually would work. There has been a question about the cloture vote and how that impacts pending amendments.

I think, in order to help move this along, it would be good if that could be answered.

Mr. KERRY. Mr. President, let me say to the Senator it may be we need the Parliamentarian on something, but here is my understanding.

There is a distinction, obviously, between an amendment to the treaty and an amendment to the resolution of ratification. Under the parliamentary rules, there is a vagueness, frankly—according, even to the Parliamentarian—as to how you go back and forth. I think in the language in the particular amendment, you can deal with that issue so you can make certain you are either addressing the resolution of ratification or the treaty itself.

Technically speaking, the treaty has to be dealt with first and then the resolution of ratification subsequently. We can go back and forth. There is no problem in that. Is that accurate, Mr. President—I ask, through you, the Parliamentarian—that we can take an amendment at any time on either the resolution of ratification or the treaty?

The ACTING PRESIDENT pro tempore. By unanimous consent that could be achieved.

Mr. KERRY. So we could take them at any time; by unanimous consent we could actually be defining what we specifically would be agreeing to deal with. But under the rules, technically, you have to do the treaty and then move that aside and go to the resolution of ratification; is that a fair statement?

The ACTING PRESIDENT pro tempore. The Senator is correct.

The Senator from Tennessee.

Mr. CORKER. Mr. President, I am not sure it is my role, because of the way the managers manage this bill, to ask for unanimous consent in that regard. I think that is probably something that either the two leaders

should ask or the two managers of the bill. But it would seem to me that would clear up any questions people have about the process itself.

I ask the Senator from Massachusetts, through the Chair, if that is the way it should work, to get that unanimous consent.

Mr. KERRY. To simplify matters, let me say this. We are prepared to take any amendment at any time and to proceed to it, and at a time the amendment comes to us and we both get a chance to look at it, we will address the question to the Parliamentarian, whether we need to ask for unanimous consent or to change the initial language of that particular amendment so it fits into that moment. What we will do is abide by the rules and make sure the amendment is appropriate. But we will take any amendment at any time as we always have in dealing with a treaty. We have always been able to resolve this question of where it applies.

In the end, once we have moved onto the final 30 hours of debate, it is irrelevant anyway; we simply conclude.

Mr. CORKER. Mr. President, I thank the Senator. I would say I was here last night on the floor. I think the Senator was, too, when discussions took place around the CR. I think emotions around here were slightly frayed, and I think everybody wants this session to end. It is my hope it will end with us doing what is necessary on the START treaty.

I think it would be good to clear that up. I think the last thing we need right now is confusion over that. It seems, instead of taking each amendment at a time—I am not up to any trickery here, I am just trying to clear this up—I think it would be much better—again, this is maybe beyond my pay grade at this moment—if the two bill managers would go ahead, by unanimous consent, and ask for that and move on with it. That way there is no question about whether people have the ability to try to amend either one, and we can move on so people cannot come down here later and say they were blocked from offering certain types of amendments.

Mr. KERRY. Let me say to the Senator, we are working on the appropriate language so we do not, in fact, wind up inadvertently amending the treaty. So we will make certain we proceed in an appropriate way.

But I guarantee any Senator, if they have an amendment, we will be able to take it and we are ready to proceed.

I thank the Senator from Tennessee for his cooperative effort.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. KYL. Mr. President, I think, having spoken to a couple colleagues, it is quite likely the first amendment that will be offered, relatively soon, will be on the treaty itself so that issue will not have been—we will have time to work the question out that Senator KERRY and Senator CORKER have been talking about.

Senator KERRY and I were involved in a discussion about missile defense last evening. I think that will be probably further debated in connection with the first amendment that is likely to be offered. So let me turn to another matter that is of great concern to some of us and I think will require some resolution, either in an amendment of the treaty or preamble or in the resolution of ratification, and that is the limitation that was placed on our potential prompt global strike—conventional global strike weapon. This is a matter on which the Senate gave its advice. Our role, of course, is advice and consent. In the last Defense bill, section 1251 of the fiscal year 2010 NDAA, we included a statement that the New START treaty should not include any limitations on advanced conventional systems, otherwise known as conventional prompt global strike.

For the purposes of this, let me refer to that now as CPGS. Despite the assurances from some in the administration that wouldn't happen, it did happen. There is both limiting language and language in the preamble that sets the stage for further limitations on CPGS. We were clear about this because I believe we are going to need this. General Chilton has said the same thing. First, let me make it clear, what we are talking about is a conventional warhead on top which is a missile that has ICBM-like capabilities, that can quickly reach a spot a long way away to deliver a nonnuclear warhead.

With the WMD and terrorist and other rogue state kinds of threats that exist today, our administration and many of the rest of us have concluded this is a capability we need.

Let me quote General Chilton:

> To provide the President a better range of non-nuclear options against rapidly emerging threats, we also require a deployed, conventional prompt global strike capability to hold at risk targets in denied territory that can only be rapidly struck today with nuclear weapon platforms.

That is the rationale for it. That is the administration's statement, and I agree with that.

The Senate provided its advice in Section 1251 of the Defense bill, and here is what Under Secretary of Defense Tauscher assured Senators. She said:

> [T]here is no effect for prompt global strike in the treaty.

A March 26, 2010, White House fact sheet assured that:

> . . . the treaty does not contain any constraints on testing, development, or deployment of . . . current or planned United States long-range strike capabilities.

Obviously, that statement was meant to assure us that CPGS would not be constrained or limited. But the kicker in there were the words ''current'' or ''planned.'' That is because there is no current CPGS, and the administration is studying what particular system or systems to move forward with.

So while technically correct that there is nothing current or planned, it is also true the constraints in the treaty will limit whatever system we eventually come up with. The question, therefore, is what happens when, as General Chilton urges us, we develop a CPGS in the future.

Incidentally, General Chilton is the head of our Strategic Command. He is the person responsible for understanding what the threats are and how we can deliver the right ordnance in the right place with perishable intelligence in a very constrained atmosphere, and that is why his views on this are very important. Yet we conceded to Russian demands to place limits on CPGS.

How was this done? The Russians were very clever about this. They knew they were not going to get the United States to back off our plan, so what they said was: You will have to count any of those missiles against the 700 launcher limit on your nuclear delivery vehicles.

That is not a good deal. Most of us believe the 700 is too low to begin with. What we will have to do is, for every single one of these, we will have to subtract that number from the 700. So if you have 25, now you are down to 675 launchers for nuclear weapons.

That is a constraint. There is no way to describe that in any other terms. Russian Foreign Minister Lavrov said, on March 29:

> For the first time, this treaty sets the ceiling, not only for strategic nuclear delivery vehicles, but also for those ones which will be fitted with nonnuclear warheads. The U.S. is carrying out this work, which is why it would be extremely important to set a limit precisely on these types of weapons.

I think he was more straightforward about this than the spokesman for the administration. He said: Sure, we put limits on it, and the United States is moving forward on it. That is why we wanted to put limits on it.

So despite the relationship between strategic and tactical nuclear weapons—but we would not dare deal with tactical weapons either in the preamble or the treaty. Yet in another concession to the Russians, the preamble to the treaty notes that the parties are ''mindful of the impact of conventionally armed ICBMs and SLBMs on strategic stability.''

Well, first of all, I do not agree with that statement. What is the impact? The impact assumes that we cannot segregate the two, which can be done. Second, are we to believe that tactical nuclear weapons, which the Russians enjoy a huge advantage—some say a 10-to-1 advantage over us—have no impact on strategic stability while conventionally armed ballistic missiles do?

What do Russia's neighbors think of that argument, I might wonder. Clearly, these limits on CPGS and the dangerous language in the preamble were concessions to the Russians. It is not in our interest because we do intend to go forward with this. I think, taken to its extreme, the treaty could prevent the United States from acquiring the nonnuclear strategic capabilities necessary to counter today's principal

threats, terrorists and regional adversaries armed with weapons of mass destruction.

We recognize the resolution of ratification has language on this. It does not rescind, and could not rescind, the specific limitation on counting conventionally armed ballistic missiles or mitigate the potential for severe disagreement with the Russians over this issue in the very near future.

I do not think we should ratify a treaty without knowing what kind of CPGS systems may be counted and how that will affect the nuclear triad at the much reduced levels now of 700 delivery vehicles. According to the Department of Defense, an assessment on treaty implications for CPGS proposals will not be ready until 2011. So under the resolution approved by the committee, Senators will not know until the treaty enters into force, when, obviously, it would be too late.

So the bottom line is, with a 700-launch vehicle limit, and CPGS counting against that limit, we will have fewer nuclear delivery vehicles than we negotiated for in the treaty, and that limit will be a disincentive to develop the CPGS as a result.

Second, the language in the preamble regarding the impact of CPGS on strategic stability opens the door to further Russian pressure against the United States not to develop and deploy these systems. Why should we accept these constraints in a treaty that was about nuclear weapons?

Now, I think Senator KERRY had three main points, if I distilled it correctly. First was, well, the Russians wanted to limit us from doing this at all. So, in effect, we should be thankful the only limitation was on the number. I do not think that is a very good argument. As I said, we wanted to talk tactical. The Russians said no, so we did not talk tactical in the strategic treaty. There is no reason why, in a strategic nuclear treaty, we need to talk conventional arms either. But we agreed to do that.

Another argument that Senator KERRY—well, it goes along with some in Russia who have said: Well, it would be very hard for us to know whether a missile launch was a strategic nuclear weapon or one of these conventional Prompt Global Strike weapons.

That is sort of a justification for the Russian position. But most of the experts with whom I have talked say that is not a limitation we need to worry about at all. We could easily agree with the Russians in various ways to assuage their concerns. For example, we can deploy the conventionally armed ballistic missiles in areas that are distinct from our ICBM field, allow them to periodically conduct onsite inspections under separate agreement. That could be done. And there are other mechanisms as well. The key point is that we need these capabilities. I do not think we should limit them in an arms control treaty dealing with strategic nuclear weapons.

The other argument is, well, we are not going to develop these for maybe 10 years, which is outside the life of the treaty. First of all, we should not have constraints on developing them at any point. We should not create the precedent that whatever we do with Prompt Global Strike is going to count against our nuclear delivery limits, which is what this treaty does.

But, finally, there are programs that are being studied right now in the United States that would allow us to put the Prompt Global Strike capability into service quite quickly. We need it; we need it now. For example, there have been proposals for weapons on conventional Trident missiles, to cite one example, that would count and could be deployed in less than 10 years. The National Academy notified Congress in May of 2007 that conventional Trident missiles could be operationally deployed within 2 years of funding. And there are others.

My point is, we should not be saying: Well, because certain things are not going to happen for 10 years, the treaty lasts 10 years, therefore, we do not have to worry about it. It takes a long time to plan these systems, and if they are going to be constrained by what is in the treaty today, they are likely going to be constrained by provisions in future treaties as well.

This is a bad precedent. It is one of the reasons we think before we were to proceed with this treaty, we would need to have some resolution either in the preamble or the treaty or the resolution of ratification that would give us assurance that we could develop Prompt Global Strike without detracting from our ability to deliver nuclear warheads as well.

I would like to turn to another matter. I mentioned briefly when I began my conversation yesterday morning about the treaty—and that is, that looked at in a larger context, some people have said: Well, this treaty, in and of itself, may not put that many constraints on the United States. Therefore, they are willing to support it. I appreciate the rationale behind the argument.

But there is an argument that this treaty has to be considered in its context. That is one of the reasons the people are concerned about the missile defense issue. But another element of context is the whole modernization issue, which is directly related to, but in a slightly different way relevant to the consideration of the treaty.

But the other aspect of context is that this is a treaty seen by the administration as moving a step forward toward the President's vision of a world without nuclear weapons. There are a lot of people who disagree with that vision and who believe if this treaty is ratified, then, in effect, the administration's very next step is going to be to begin negotiations to do that.

Indeed, administration spokesmen have said precisely that. Secretary Clinton, when New START was signed, talked about the President's vision of the world without nuclear weapons, and said: We are making real progress toward that goal.

There have been numerous administration spokesmen who have made the same point. I will just mention three. Under Secretary Tauscher, whom I referred to earlier; Assistant Secretary of State Rose Gottemoeller, who actually negotiated this treaty; and Assistant Secretary of Defense Alexander Vershbow have all indicated the next round of negotiations the administration intends to engage in, beginning immediately after the ratification of the START treaty, is the march toward the President's vision of a world without nuclear weapons.

I said I do not share that vision. I do not share it for two reasons: I think it is difficult, if not impossible, to achieve, and I question whether it is a good idea at all. I do not think anybody believes that is something that is achievable in anybody's lifetime, even if it is ever achievable.

But, right now, focusing on this diverts attention, as I think this treaty does, from the efforts to deal with the true threats of today: countries such as Iran and North Korea and nuclear weapons falling into the hands of terrorists. As I said—in fact, let me quote Dr. Rice, who just recently wrote an op-ed in the Wall Street Journal. December 7 is the date. She said:

> Nuclear weapons will be with us for a long time. After this treaty, our focus must be on stopping dangerous proliferators, not on further reductions in the U.S. and Russian strategic arsenals, which are really no threat to each other or to international stability.

I agree with that. Let me quote George Kennan, who wrote this a long time ago, but I think it applies today:

> The evil of these Utopian enthusiasms was not only or even primarily the wasted time, the misplaced emphasis, the encouragement of false hopes. The evil lay primarily in the fact that those enthusiasms distracted our gaze from the real things that were happening. The cultivation of these Utopian schemes, flattering to our own image of ourselves, took place at the expense of our feeling for reality.

I would apply that to today. While we make a big hullabaloo about signing a treaty between Russia and the United States, countries that are no longer enemies, who are bringing down our strategic arsenals because it is in our own self-interest to do so, and ignore the threats—and I should not say ''ignore'' because that is to suggest the administration and others have not spent time working on the problem of Iran and North Korea. I ask, however, how much success we have had and whether we need to devote more attention and effort to resolving those problems that are immediately in front of us rather than dealing with a nonproblem in the START treaty with Russia.

Also, I would ask my colleagues to just reflect for a moment on what such a world would be like. You can divide, at least in my lifetime, barely, pre-August 1945, in the last century, and post-

August 1945. World War II claimed between 56 and 81 million lives. It is astounding to me we cannot even get a more accurate count of that. That is how destructive and disruptive and cataclysmic World War II was.

But it was ended with two atomic weapons. Since that time, the major powers—Russia, the United States, China—have not fired a shot in anger against each other. Major wars such as World War II, World War I—these kinds of wars have been avoided at least in part because the countries that possess these weapons know they cannot be used against each other in a conflict.

That is the deterrent value. Would it be nice if they had never been invented? Yes. Except for what they accomplished in ending World War II. But they cannot be uninvented, and the reality is, today it does provide a deterrent for the United States to have these weapons, and 31 other countries in the world rely on that deterrent.

So I would just ask those who say it would be wonderful if these weapons did not exist, what would the world look like today, with all of the conflicts that exist, and the opportunity for conventional warfare, unconstrained by the deterrent of a nuclear retaliation?

Nobel Prize winner and arms control expert Thomas Schelling recently observed that: In a world without nuclear weapons, countries would maintain an ability to rearm, and that ''every crisis would be a nuclear crisis . . . the urge to preempt would dominate. . .it would be a nervous world.''

Well, to be sure, and that is an understatement. New York Times columnist Roger Cohen wrote:

A world without nuclear weapons sounds nice, but of course that was the world that brought us World War I and World War II. If you like the sound of that, the touchy-feely 'Ground Zero' bandwagon is probably for you.

General Brent Scowcroft, who is actually a proponent of this treaty wrote:

Second, given the clear risks and the elusive benefits inherent in additional deep cuts, the burden of proof should be on those who advocate such reductions to demonstrate exactly how and why such cuts would serve to enhance U.S. security. Absent such a demonstration, we should not pursue additional cuts in the mistaken belief that fewer is ipso facto better.

This is a point that was also made by the Bipartisan Congressional Commission on the Strategic Posture of the United States, the so-called Perry-Schlesinger Commission, in which they concluded:

All of the commission members all believe that reaching the ultimate goal of global nuclear elimination would require a fundamental change in geopolitics.

Again, quite an understatement. As I said, even the notion that we would be immediately pursuing, trying to reach this goal after the START treaty is ratified is to bring into question—at least I would suggest—in the minds of the 31 countries that depend on our nuclear deterrent for their security, whether this is a wise idea. There are plenty of folks around the world who have commented on this, national leaders who have commented on this.

Let me just quote a couple to illustrate the breadth of concern about it.

The President of France, Nicolas Sarkozy:

It—

Referring to the French nuclear deterrent—

is neither a matter of prestige nor a question of rank, it is quite simply the nation's life insurance policy.

I ask unanimous consent to have printed in the RECORD, at the conclusion of my remarks, a list of comments and quotations by people who have spoken to this. Let me just cite maybe one.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1).

Mr. KYL. Bill Kristol, who is, I think, a very astute observer of these matters, wrote in the Washington Post in April of last year:

Yet to justify a world without nuclear weapons, what Obama would really have to envision is a world without war, or without threats of war . . . The danger is that the allure of a world without nuclear weapons can be a distraction—even an excuse for not acting against real nuclear threats. So while Obama talks of a future without nuclear weapons, the trajectory we are on today is toward a nuclear- and missile-capable North Korea and Iran—and a far more dangerous world.

The point of all of the people whom I don't quote here but will include for the RECORD is that the genie will not be put back in the bottle. Countries will have nuclear weapons. As one of them pointed out, if we were ever, by some magic, able to rid the world of nuclear weapons, the threat of one nation quickly acquiring them would be the most destabilizing thing one could imagine. The reality is, it is not going to happen. The United States moving toward that goal is not going to influence anyone, including North Korea or Syria or Iran or other countries that may mean the United States harm.

For those who believe this is a bad idea and who would like to see the President step back from that goal and instead focus more convincingly on dealing with the threats that are near term, ratification of this treaty presents a real problem, especially when the administration talks about the very next thing they want to do after beginning those negotiations is to bring to the Senate the comprehensive test ban treaty which this Senate defeated 11 years ago, and there are even stronger reasons to reject it today.

The bottom line is, one can argue that the dramatic reduction in the arsenals of Russia and United States of strategic weapons has been a good thing. It certainly has been an economically justifiable action for both countries because they are costly. But it has had no discernible effect on nuclear proliferation. We have had more proliferation since, after the Cold War, we began to reduce these weapons. They are unlikely, between the United States and Russia, to be a cause of future conflict.

It is time for global disarmament, starting with President Obama, to recognize this reality and channel their considerable efforts and good intentions toward the true dangers of which I have spoken.

I would like to address one other subject, if I may.

Mr. KERRY. I don't want to interrupt the Senator, but I wonder if, before he goes to another area, he would like to engage in a discussion on this particular one?

Mr. KYL. Mr. President, I would be happy to do that.

Mr. KERRY. If he is pressed for time, I understand that.

Mr. KYL. I am always happy to yield to my friend, and we always engage in interesting colloquies. I had indicated that, as a predicate to amendments, several of us had opening statements we would like to give. I am ready to go to amendments, but there are a couple of things I would like to say before we do.

Mr. KERRY. Then I will reserve my question until later.

Mr. KYL. I will enjoy the colloquy we have when we do get around to it.

Mr. President, we don't have time to get into a lot of detail, but there is the question of verification. This is one of the other major matters people have written about, including Senator BOND, who is the ranking Republican on the Intelligence Committee. It is going to be important for the Senate to have an executive session to go over intelligence, classified information that relates to the question of verification and past Russian compliance or noncompliance with agreements they have made with the United States.

In this short period, I wish to rebut something that continues to be repeated and is simply not true or at least the implication is not true—that we have to do this treaty because we need the verification provisions. The implication is that they are good and strong and will be effective. They won't. The verification provisions are far less than we had in the START I treaty. In the view of many people, they are not going to be effective.

Secretary of State James Baker, who testified early on this treaty, said:

[The verification mechanism in the New START treaty] does not appear as rigorous or extensive as the one that verified the numerous and diverse treaty obligations and prohibitions under START I. This complex part of the treaty is even more crucial when fewer deployed nuclear warheads are allowed than were allowed in the past.

My colleague Senator MCCAIN said:

The New START treaty's permissive approach to verification will result in less transparency and create additional challenges for our ability to monitor Russia's current and future capabilities.

Senator BOND said:

New START suffers from fundamental verification flaws that no amount of tinkering around the edges can fix.

He also said:

The Select Committee on Intelligence has been looking at this issue closely over the past several months . . . There is no doubt in my mind that the United States cannot reliably verify the treaty's 1,550 limit on deployed warheads.

In very simple terms, the reason he is saying that is that there is no overall verification of those warheads. We can look at an individual missile and see how many warheads are on the top, but that doesn't tell us whether they are in compliance with 1,550. That is one of the fundamental flaws.

The amount of telemetry, unencrypted telemetry, from Russian missile tests is reduced to zero unless the Russians decide to give us more than zero.

There is no longer onsite monitoring of the mobile missile final assembly facility at Votkinsk, which has existed for all these years under START I. The Russians didn't want us hanging around there anymore. We didn't even fight for that. It is a critical verification issue with respect to potentially a railcar or other mobile missiles the Russians will be developing. Secretary Gates spoke to that eloquently with respect to the verification provisions in START I. There are fewer onsite inspections. And I can't imagine the Russians would declare a facility, which is the only place we get to visit, and then be doing something nefarious at that particular declared facility. It is the undeclared facilities that represent a big part of the problem.

Former CIA Director James Woolsey said:

New START's verification provisions will provide little or no help in detecting illegal activity at locations the Russians fail to declare, are off-limits to U.S. inspectors, or are underground or otherwise hidden from our satellites.

He makes the point, when he refers to satellites, those are sometimes referred to as our national assets. They do good and they tell us a lot, but they can't possibly tell us all we need to know. That is why we had much more vigorous verification under START I.

There are other things we will be discussing when we get into the classified session on this, but let me conclude this point and my presentation with this reality. We will find—I can say this much, at least, in open session—that the Russians have violated major provisions of most of the agreements we have entered into with them for a long, long time: START I, the Chemical Weapons Convention, the Biological Weapons Convention, the conventional forces in Europe treaty, the Open Skies Treaty, and, by the way, others I won't mention.

The concern would be for a breakout. Today, Russia and the United States are not enemies. That is why a lot of this is of less concern than it ordinarily would be. The big concern is just that ultimate concern of a breakout. What if all of a sudden they decided to confront us over some issue relating to a country on their border or something else and we were not aware they had gained a significant advantage over us? Again, the preparation of the United States to deal with that takes a long time. I won't get into it here, but it takes a long time. That is why verification and intelligence is so important.

I have talked about two things this morning: the conventional global strike and the verification issues, as well as the general concept of a world without nuclear weapons, which, unfortunately, this treaty, at least in the minds of a lot of people, is viewed as a predicate for and which would be very dangerous.

There are some other issues I eventually wish to speak to, including the whole question of whether, as a rationale for this treaty, the reset relations with Russia have really provided very much help to the United States and whether this treaty should be used as a way of assuaging Russian sensitivities or convincing them to cooperate with us on other things.

Others have talked about tactical nuclear weapons, and there will be amendments we will be offering to deal with that, and we can discuss that later.

There is also the very important matter of the Bilateral Consultative Commission, recognizing that this group of Russian and American negotiators could in secret change terms of the treaty. The resolution of ratification provided for a notice provision, but it is not adequate. I am hoping my colleagues will agree with us on that. We will provide a longer term for notification, with an ability of the Senate to reject terms that are deemed central to the treaty and for which we really need to be providing our consent or nonconsent.

Then finally, something I alluded to here, which is that the United States really ought to be spending more time dealing with the threats that I think are more real to us today, threats coming from places such as Iran and North Korea, rather than assuming that our top priority is to rush it right up to Christmas in order to get it done.

We will have more opportunity to talk about all of those matters later. Hopefully this afternoon, we can begin debating amendments, and we do need to get squared away the issue that Senator CORKER and Senator KERRY talked about, which is how we go about doing that in a way that does not cut off people's rights to offer amendments which are to the resolution of ratification.

EXHIBIT 1

ADDITIONAL STATEMENTS ON THE FOLLY OF ZERO

''The presumption that U.S. movement toward nuclear disarmament will deliver nonproliferation success is a fantasy. On the contrary, the U.S. nuclear arsenal has itself been the single most important tool for nonproliferation in history, and dismantling it would be a huge setback.'' [94]

''The Obama administration's push for nuclear disarmament has a seductive intellectual and political appeal, but its main points are in contradiction with reality. And when a security policy is built on fantasy, someone usually gets hurt.'' [95]

Kenneth Waltz, leading arms controller and professor emeritus of political science at UC Berkeley: ''We now have 64 years of experience since Hiroshima. It's striking and against all historical precedent that for that substantial period, there has not been any war among nuclear states.'' [96]

''And even if Russia and China (and France, Britain, Israel, India, and Pakistan) could be coaxed to abandon their weapons, we'd still live with the fear that any of them could quickly and secretly rearm.'' [97]

Secretary James Schlesinger, post-Reykjavik (1986): ''Nuclear arsenals are going to be with us as long as there are sovereign states with conflicting ideologies. Unlike Aladdin with his lamp, we have no way to force the nuclear genie back into the bottle. A world without nuclear weapons is a utopian dream.'' [98]

Nicolas Sarkozy, President of France: ''It [the French nuclear deterrent] is neither a matter of prestige nor a question of rank, it is quite simply the nation's life insurance policy.'' [99]

''The idea of a world free of nuclear weapons is not so much an impossible dream as an impossible nightmare.'' [100]

''A world that was genuinely free of nuclear weapons would look very different. War between big powers would once again become thinkable. In previous eras, the rise and fall of great powers has almost always been accompanied by war. The main reason for hoping that the rise of China will be an exception to this grisly rule is that both the U.S. and China have nuclear weapons. They will have to find other ways to act out their rivalries.'' [101]

William Kristol: ''Yet to justify a world without nuclear weapons, what Obama would really have to envision is a world without war, or without threats of war . . . The danger is that the allure of a world without nuclear weapons can be a distraction—even an excuse for not acting against real nuclear threats . . . So while Obama talks of a future without nuclear weapons, the trajectory we are on today is toward a nuclear- and missile-capable North Korea and Iran—and a far more dangerous world.'' [102]

''As long as a nukeless world remains wishful thinking and pastoral rhetoric, we'll be all right. But if the Nobel Committee truly cares about peace, its members will think a little harder about trying to make it a reality. Open a history book and you'll see what the modern world looks like without nuclear weapons. It is horrible beyond description.'' [103]

''So when last we saw a world without nuclear weapons, human beings were killing one another with such feverish efficiency that they couldn't keep track of the victims to the nearest 15 million. Over three decades of industrialized war, the planet averaged about 3 million dead per year. Why did that stop happening?'' [104]

''A world with nuclear weapons in it is a scary, scary place to think about. The industrialized world without nuclear weapons was a scary, scary place for real. But there is no way to un-ring the nuclear bell. The science and technology of nuclear weapons is widespread, and if nukes are outlawed someday, only outlaws will have nukes.'' [105]

ENDNOTES

[94] Keith Payne, ''A Vision Shall Guide Them?'' National Review. November 2, 2009.

[95] Id.

[96] Jonathan Tepperman, ''Why Obama Should Learn to Love the Bomb.'' Newsweek. August 29,2009.

[97] Id.
[98] Sec. James Schlesinger, ''The Dangers of a Nuclear-Free World.'' Time. October 27, 1986.
[99] French President Nicolas Sarkozy Nuclear Policy speech, March 21, 2008.
[100] Gideon Rachman, ''A nuclear-free world? No Thanks.'' Financial Times. May 4, 2010.
[101] Id.
[102] William Kristol, ''A World Without Nukes—Just Like 1939.'' Washington Post. April 7, 2009.
[103] David Von Drehle, ''Want Peace? Give a Nuke the Nobel.'' Time. October 11, 2009.
[104] Id.
[105] Id.

Mr. KYL. I think it is true, Senator KERRY said that under the precedents of the Senate, we first have to attempt to amend the treaty and the preamble, and to do otherwise or to mix the two up would require unanimous consent.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KERRY. Mr. President, we have no intention of trying to use any technicality to deny an ability to offer an amendment. When each amendment comes up, we will find a way to make certain it is appropriate. We obviously have to send a signal at this point where you have to go off the treaty and onto the resolution of ratification. That happens automatically when we file cloture. So once that is done, it really becomes irrelevant.

Mr. KYL. Mr. President, when the Senator says that happens automatically, if cloture is filed and invoked, then both amendments to the treaty, the preamble, and the resolution of ratification are cut off at that point, correct?

Mr. KERRY. No. There still are germane amendments allowed to the resolution of ratification at that point, providing we have at that point completed issues on the treaty.

Mr. KYL. In other words, cloture cuts off both the resolution of ratification amendments as well as treaty and preamble amendments.

Mr. KERRY. Correct. Once it has been invoked, that is correct.

Let me say a couple of things to my friend, if I may. I know he has to run, but in his earlier argument with respect to the prompt global strike—we can get into this, and we will a little bit later, but he said something about how you could eliminate the issue of confusion with the Russians because you could just agree with them, and they could agree, and then you have sort of an identification. The whole point is, they won't agree. They are not going to agree. You can't sort of make this supposition all of a sudden that you can erase a problem simply because they will agree to something they don't want to agree to, which is why we are in the place we are with respect to that issue. That is No. 1.

No. 2, we made the decision, our generals made the decision, our defense folks, that we are better off with this because it, in fact, gives us a greater capacity to be able to verify what they are doing as well as what we are doing and to understand the makeup of ICBMs as we go forward.

I won't go into this at great length, but let me say to the Senator, I urge him to reread the resolution of ratification. In that resolution, condition 6 addresses these questions. Condition 7 addresses these questions. Understanding 5 addresses strategic range nonnuclear weapons systems and declaration 3 addresses them. I will not go through all of that language right now, but we have addressed this question. Any future treaty with respect to this question of global zero that keeps coming back up—I will talk about this later with the Senator, but the Senator must have a very different vision of where he would like to see the world go and of what would be in the long-term interest globally and of what the impact is of multiple nuclear weapons in the world with a lot more fissionable material, a lot more ability for terrorists to be able to access that fissionable material.

The fact is that in testimony before our committee, Secretary Baker was very clear about the linkage of the Nunn-Lugar threat reduction program and the START treaty. He said directly to the committee that were it not for the START treaty, we would not have been able to reduce the numbers of nuclear weapons and therefore the amount of fissionable material that in many cases was badly guarded or not guarded at all and completely available to the possibility of black market sale and falling into the hands of terrorists. There are many ways to proceed forward.

I would also say to my friend, with respect to this global nuclear zero, it is stunning to me that colleagues are coming to the floor fighting against an organizing principle and concept for how you could move the entire world to a safer place, ultimately, none of which will happen, clearly, without extraordinary changes globally in the way nations relate to each other and behave, how you control fissionable material, and what kind of dispute resolution mechanisms might be available in the future.

But, for heaven's sake, it is incredible to me that you cannot imagine and have a vision of the possibility of a world in which you ultimately work to get this. That is the purpose of human endeavor in this field, in a sense. It is why we have a United Nations. It is why President after President has talked about a world without nuclear weapons, a world that is safer.

Does that mean that all of a sudden we are discarding the present day notion of deterrence? No. Does that mean we are ignoring the reality of how countries have made judgments over the course of the Cold War about peace and war and what the risk is of going to war? Obviously not.

One of the things the Navy did for me was send me to nuclear, chemical, biological warfare school, and I spent an interesting time learning about throw weight and the concentric circles of damage and the extent to which one nuclear weapon wreaks havoc in the world. The concept, to me, of 1,550 of them aimed at each other is still way above any sort of reasonable standards, in my judgment, about what it takes to deter. Do you think we would think about bombing China today or going to war with them? China has, in published, unclassified assessments, one-tenth maybe of the number of weapons we have. I do not think they are feeling particularly threatened by the United States in that context, nor we they, because you arrive at other ways of sort of working through these kinds of things.

So I just think this concept of a nuclear zero is so irrelevant to this debate, particularly given the fact that we are debating a treaty which is the only way to agree to reduce the weapons that requires 67 votes in the Senate. So even if President Obama wanted to try to do something in the future, this treaty does not open the door to it because it would require a next treaty in order to accomplish it and that would require 67 votes and it is pretty obvious you would never get that in the Senate in the current world.

So what are we talking about here? It is sort of a distraction. It is one of these hobgoblins of some folks who are so ideologically narrowly focused that they cannot see the forest for the trees. The choice is between having a treaty that gives you inspection, that every Member of our intelligence community says can be verified, that helps to provide security or not having one and having no inspection and having no verification—none, whatsoever. That is the choice. This is not particularly complicated, unless you want to make it so, for a whole lot of other reasons.

So the concept that doing this treaty is a distraction from dealing with terror is absolutely contradicted by the facts. Witness what Jim Baker and others have said about the Nunn-Lugar Threat Reduction Program and its linkage to START I, not to mention the myriad of other benefits that come, and there you see what Russia has done with the United States in recent months to move with respect to Iran. If we had not had a reset button, if we had not improved the relationship with Russia, if we had not been able to share information and have a cooperative atmosphere, partly increased by virtue of this treaty agreement, if we had not done that, Russia would not have joined with the United States because the relationship would not have been such that they would have been willing to in order to bring greater sanctions against Iran and try to deal with Iran's nuclear program.

So all of these things are linked. To suggest somehow that you can walk in here and just separate them and treat them differently is to ignore the nature of government-to-government relations, to ignore the nature of bilateral relationships, to ignore the nature of human nature in which people react to what other people do, and countries are

the same way. They react to the sense of where we are headed. By working together cooperatively, I think we have been able to say we are headed in the same direction, and that is an important message.

There is a lot more to be said on all this, but I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Indiana.

Mr. LUGAR. Mr. President, during the debate, several Senators have noted concerns about the U.S. triad of submarines, land-based missiles, and those weapons with which we will equip our heavy bombers over the duration of the treaty.

Others have cited concerns with the administration's plans for ICBM modernization in the updated 1251 report. They note it could somehow constrain our flexibility and serves to meet some arms control aspirations rather than weapons modernization.

Our resolution of ratification incorporated a declaration concerning the so-called triad. This was done in the committee with an amendment offered by Senator RISCH.

That declaration, No. 13, states:

It is the sense of the Senate that United States deterrence and flexibility is assured by a robust triad of strategic delivery vehicles. To this end, the United States is committed to accomplishing the modernization and replacement of its strategic nuclear delivery vehicles, and to ensuring the continued flexibility of United States conventional and nuclear delivery systems.

That, as I say, was included in our committee work.

Secondly, I wrote to Secretary Gates last week, our Secretary of Defense, regarding the concerns that many Senators have noted about the age and weaponry for our heavy bombers, notably the B–52 and its air-launched cruise missile, and about modernization plans for our ICBMs. I wanted assurances that over the duration of the treaty we will have a triad of systems that is credible, particularly the bomber leg of our triad.

Mr. President, I ask unanimous consent to have printed in the RECORD the response I received from Secretary Gates on December 10.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECRETARY OF DEFENSE,
PENTAGON,
Washington, DC, December 10, 2010.

Hon. RICHARD G. LUGAR,
Ranking Member, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR SENATOR LUGAR: Thank you for your letter of December 6, 2010, regarding future U.S. strategic force structure in light of the Nuclear Posture Review (NPR), the Section 1251 Report, and the Update to the 1251 Report. I would like to take this opportunity to address the issues raised in your letter regarding the continuing viability of the U.S. air-launched cruise missile (ALCM) capability and the heavy bomber force, as well as the basing and warhead options for a follow-on intercontinental ballistic missile (ICBM).

Regarding your first concern on the viability of the ALCM inventory and the heavy-bomber leg of the Triad, the Administration intends to replace the current ALCM with an advanced penetrating long range standoff (LRSO) cruise missile. The current ALCM will be maintained through 2030 with multiple service life extension programs to ensure viability of the propulsion systems, guidance and flight control systems and warhead arming components. The Department of Defense intends to field an advanced LRSO capability to replace the ALCM and the Air Force has programmed approximately $800 million for research, development, test, and evaluation over the next five years for the development of LRSO. As this effort proceeds, we will work with the National Nuclear Security Administration to study options for a safe, secure, and effective nuclear warhead for the LRSO. The Administration is committed to providing a sufficient and credible nuclear standoff attack capability, and ensuring that the bomber leg of the Triad remains fully capable of supporting U.S. deterrent requirements. This commitment to maintaining an effective nuclear standoff attack capability is coupled with the Administration's plans to sustain the heavy-bomber leg of the Triad for the indefinite future and its commitment to the modernization of the heavy bomber force.

The Administration is also committed to sustaining the silo-based Minuteman III force through 2030, as mandated by Congress. This sustainment includes substantial life extension programs and security upgrades, which will allow us to sustain up to 420 single warhead ICBMs at three bases under the New START Treaty. The Administration believes that preparatory analysis for a follow-on ICBM capability in the 2030 timeframe should examine a wide range of options. Silo-based ICBMs have clear advantages; at the same time, considering other alternatives will help to determine a cost-effective approach for a follow-on ICBM that supports continued reductions in U.S. nuclear weapons while promoting stable deterrence. It should be noted that deployment of the follow-on ICBM, in whatever form it takes, will occur well beyond the expiration of New START, if it is ratified and enters into force in the near term. Finally, neither the Update to the 1251 Report nor planning and guidance for a follow-on ICBM will constrain the flexibility of a follow-on design with respect to warhead loadings. In the meantime, plans are currently in work to retain the capability to deploy multiple warheads on the Minuteman III missile, to include periodic operational test launches with more than one warhead.

Thank you for the opportunity to address the important matters you have raised in connection with our Nation's nuclear deterrent, and for your leadership on the New START Treaty.

Sincerely,

ROBERT M. GATES.

Mr. LUGAR. Mr. President, I asked for an assurance that over the duration of the New START treaty the Defense Department will not permit a situation to arise where heavy bombers lack sufficient and credible nuclear standoff attack capability.

Secretary Gates responded that the current air-launched cruise missile will be maintained through 2030 with multiple lifetime extensions and that ''the Administration is committed to providing a sufficient and credible nuclear standoff attack capability, and ensure that the bomber leg of the Triad remains fully capable of supporting U.S. deterrent requirements.''

I also sought assurance that the language in the 1251 update will in no way modify the basing of the ICBM leg of the triad nor constrain its future designs with respect to warhead loadings; that is, constraining it to meet some arms control goal of fewer warheads for ICBMs.

Secretary Gates responded that ''The Administration is also committed to sustaining the silo-based Minuteman III force through 2030, as mandated by Congress'' and that ''[N]either the Update to the 1251 Report nor planning and guidance for a follow-on ICBM will constrain the flexibility of a follow-on design with respect to warhead loadings.''

Bombers will have sufficient nuclear weapons under New START. We are not going to constrain a future ICBM for purposes of arms control.

With these commitments, and our declaration, I am assured by Secretary of Defense Gates that we will have a credible bomber leg, one that allows us sufficient and flexible responses to strategic change, and that a future ICBM will not be less effective or flexible than our present ICBMs.

Moreover, regarding New START force levels, the combatant commander responsible for executing strategic deterrence operations and planning for nuclear operations, General Chilton, has said this about the New START treaty and its force structure:

Under the New START Treaty, based on U.S. Strategic Command analysis, I assess that the triad of diverse and complementary delivery systems will provide sufficient capabilities to make our deterrent credible and effective. . . . Under the New START Treaty, the United States will retain the military flexibility necessary to ensure each of these for the period of the treaty. . . . U.S. Strategic Command analyzed the required nuclear weapons and delivery vehicle force structure and posture to meet current guidance and provided options for consideration by the Department of Defense . . . this rigorous appraisal rooted in both deterrence strategy and an assessment of potential adversary capabilities, validated both the agreed-upon reductions in the New START Treaty and recommendations in the Nuclear Posture Review.

End of quote from General Chilton.

Note what he said—that this analysis take into account potential adversary capabilities. General Chilton is confident in our deterrent and that the force structure under the treaty and our triad will meet our needs.

I do not think we should dispute either General Chilton or Secretary Gates—long-serving professionals who have served both Presidents Bush and Obama so very well.

I would add, supplementing the excellent comments made by my colleague, the chairman, that from the beginning of our debates in the Senate on arms control treaties or even before that, the so-called Nunn-Lugar Cooperative Threat Reduction Program, there have been many Senators very sincere in their viewpoints that they simply do not like arms control treaties. Furthermore, they would counsel that you cannot trust the Russians. Therefore, adding the two together, if you have an

aversion to arms control treaties and agreements and you do not trust the Russians and, furthermore, you do not want to trust the Russians or have any further dealings with them quite apart from treaties on arms control, this leads to certain skepticism, if not outright opposition, to those of us who have been proposing arms control treaties for several years and arms control treaties with the Russians in particular.

I would simply point out, as I tried to yesterday informally, that there are always extraordinary problems with verification of any treaty, and much of the debate on this treaty, in terms of our committee responsibilities and initial statements made by Senators on the floor, zero in on such points, as to the fact that you cannot trust the Russians, and/or there are other things in the world we ought to be paying attention to, much more important than the Russians for that matter, and, further, that somehow this treaty, in particular, will inhibit the defense of our country, specifically through missile defense.

Members of administrations past and present have affirmed it is important to have arms control treaties with the Russians. It has not ever been a question of trusting the Russians. It has been a question of trying to provide verification that the provisions of the treaties that we have negotiated are, in fact, fulfilled. It is a fact, as has been suggested by some Senators, that on several occasions we have found violations or very dubious conduct on the part of the Russians. I have no idea how many times they have testified they have found something doubtful about our performance, but in any event, in the real world of deterrence and the real world of verifiability, there have been abrasions and arguments and disputes.

I would simply say one of the values of the treaties we have had with the Russians, and specifically the START treaty regime, is that they have allowed many of us—the distinguished chairman has made a good number of trips to Russia and to countries that surround Russia. I have had that responsibility and opportunity for many years likewise.

I testified yesterday during our debate that on one occasion, when I was invited to come to Sevmash, the submarine base, I saw things no American had ever seen before, apparently. When we talk about our intelligence facilities, there were no pictures taken by our intelligence folks, or very good dimensions of what a Typhoon submarine actually looked like or what it did. We had various suppositions. Incredibly, after my visit to Sevmash, where we were not allowed to take pictures, a Russian sent to me a picture of me standing in front of a Typhoon submarine. From our intelligence standpoint, this was the first time anyone had seen a picture of a Typhoon, quite apart from a diligent Senator standing in front of it. Furthermore, we had good opportunities with the Russians to discuss the Typhoon.

I don't specialize in submarines, but I was able to take notes and to make known at least my impressions of that particular situation. Why in the world would someone invite a Senator to come see something of that variety? It came about because we literally had not only boots on the ground in terms of our military but some of us even as Senators. The relationship was such that the Russians, perceiving they needed to get rid of the Typhoon submarines and it was going to be very expensive, technically maybe even dangerous with regard to removal of all of the 200 missiles, decided it was time to do business. The opportunities that come, in other words, from a relationship of that sort sometimes move in directions no one might have anticipated—but to the good, in my judgment. I admitted yesterday only three of the six Typhoons have, in fact, been destroyed. It is a tedious, expensive, difficult process.

But getting back to our debates on the floor of the Senate, I can recall not only during the initial discussion of the Nunn-Lugar Act, but almost annually as appropriations were sought to continue this work, skeptical colleagues, first of all, doubting the value of any type of arrangement with the Russians, and doubting very much whether a dime of American taxpayer money should ever be spent on the Russians in this regard. So some of us, as reasonably and calmly as possible, could say, Well, we think it is probably important that if there are, in fact, nuclear warheads, thousands of them, aimed at our cities as well as our military installations, and we have opportunities and cooperative threat reduction to work as contractors, as Senators, as military officials, whoever, with the Russians, we ought to take those warheads that are aimed at us off the missiles. We ought to physically take the missiles down. We ought to, in fact, destroy the silos in which they are located, and we think this is probably a valuable use of taxpayer money in terms of our own defense.

Each year, by and large, that argument won, although rarely unanimously. On one occasion, incredible as it may be, Members of the Senate added so many qualifications, so many additional reports that had to be filed by the Defense Department or the State Department or intelligence authorities that the whole fiscal year passed without a single dollar being available for expenditure on any of this armament reduction. In other words, Senators were so involved in attempting to demonstrate their mistrust of the Russians, their demand that our bureaucracy fulfill all sorts of impossible goals, that nothing got done. Eventually over the course of the decade, we evolved to a point where by and large those sorts of debates began to taper off—and I am grateful for that—and we began to see the possibilities not only with regard to the Russians but other countries who had strange weapons that they reported to us and sought our cooperation. This is well beyond even the ability to wind up the nuclear situation in Ukraine or Kazakhstan or Belarus or what have you.

I would cite one more, and that is in the year 2004, the first year in which the Senate voted that at least $50 million—just $50 million of about $500 million that year of the Nunn-Lugar program could be used outside of Russia. So strong were feelings of some in opposition to the Nunn-Lugar program that they saw the fact that it might spread outside of Russia almost as a contaminant, something that ought to be contained. They felt it was bad enough that we had ever had such a thing in Russia, quite apart that we ought to destroy weapons anywhere else. But nevertheless, a majority of the Senate did allow for $50 million. That very summer authorities in Albania notified the Pentagon that they had found some strange drums up above the capital city of Tirana in Albania, and they wanted to report that to us because they thought they needed assistance, probably for safety's sake of the Albanians who had found the drums. Our officials, having been invited by the Albanians, went in fact to the mountains and they found the drums were filled with nerve gas. Very quickly, they simply put up a modest fence and began to roll the drums in behind the fence.

I was invited to come over at that stage and I did, and I had good visits to our Ambassador to Albania, with their foreign minister and their defense minister, members of their Parliament. Albania at that time was a state that was coming out of a terrible dictatorship—a dictatorship so adverse that it was even difficult for the Soviet Union or China to deal with. Where in the world the nerve gas came from is a matter of conjecture. But in any event, once we had indicated our hopes that we could work with the Albanians, they invited us to do so and to help them destroy it.

As a matter of fact, as a bonus, while we were up in the mountains they took us by several sheds where there were hundreds of MANPAD missiles—not weapons of mass destruction, but missiles we had furnished, as a matter of fact, to forces in Afghanistan in an earlier war to drive out the former Soviet Union. So we were able to destroy those while we were at it. As an added bonus, the Defense Minister of Albania said, We believe we ought to set up a military academy along the same standards of your military academy at West Point. As a further gesture, we are going to have as a requirement that each of our cadets must master the English language so that we are going to be able to deal with you for some time to come. I felt that was an important gesture. I mention this because in the course of arms control, a

good number of things happen that are very important.

I will conclude by saying that Albania 2 years later invited all of the countries of the world to come to their capital and to celebrate the fact that Albania claimed to be the first nation state to fulfill the chemical weapons convention, that all chemical weapons in the country had been destroyed, and we celebrated with them, and it was literally a derivative of the situation we are describing today.

So I ask those who are normally skeptical to continue to ask good questions but likewise to understand the history at least of the last two decades that has been very constructive for our country.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I wish to thank the ranking member, Senator LUGAR, for sharing that account with the Senate. I think it is first of all historic, but secondly I think it is relevant to the interconnectedness between what we are doing here and the long-term ways in which we make our country safer. One can only imagine if one group or another that we are all too familiar with the labels and names of these days had gotten hold of those barrels. The havoc that could have been wreaked somewhere is extraordinary. As the Senator from Indiana knows better than anybody here, some of these nuclear materials were behind creaky old rusty gates; maybe one guard, if any guard; a lock that was so easy to break—I mean, it was infantile, the notion that something was secured. Much of that has changed as a consequence of the program that he and Senator Nunn began, but also the consciousness that has been raised in a lot of countries around the world. This effort, we believe, continues that.

So I thank him for his leadership, again, on that score. We are awaiting amendments from colleagues and we look forward to entertaining them when they get here.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REED. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REED. Mr. President, I rise today to express my support for the New Strategic Arms Reduction Treaty, also known as the New START treaty, which was signed by President Obama and Russian President Medvedev on April 8, 2010, and would replace the START treaty that expired on December 5, 2009.

As a member of the Armed Services Committee, I have had the opportunity to review the implications of this treaty over the course of five hearings and multiple briefings. I am convinced that ratification of this treaty is essential to the security of the United States, and not simply in the context of our relationship with Russia but also in our efforts to counter nuclear proliferation throughout the world.

As a starting point to consider this treaty, it is important to recognize that since December 5, 2009, when the START treaty expired, we have not had inspectors on the ground in Russia to monitor their nuclear weapons complex. It wasn't until December 2008 that the Bush administration and Russia agreed they wanted to replace START before it expired but acknowledged that the task would have to be left to the Obama administration, leaving them 1 year before the treaty was set to expire so they could begin these negotiations.

The reality is that we have not had a verification regime in place or inspectors on the ground in Russia for over a year, and every day that goes by without this treaty in place is another day that the United States lacks the ability to verify effectively and inspect Russia's strategic nuclear forces.

If the Senate rejects this treaty, it may be many years, if ever, before we once again have American inspectors on the ground in Russia.

President Obama stated:

> In the absence of START, without the New START treaty being ratified by the Senate, we do not have a verification mechanism to ensure that we know what the Russians are doing . . . . And when you have uncertainty in the area of nuclear weapons, that's a much more dangerous world to live in.

The bottom line is this: If you don't trust the Russians, then you should be voting for this treaty because that is the only way we are going to get, in a timely, effective way, American inspectors back on the ground looking at their nuclear complex.

There is another aspect. Without the New START treaty in place, there is additional strain on our intelligence network to monitor Russia's activities.

In his testimony to the Armed Services Committee, GEN Kevin Chilton, commander of STRATCOM, stated:

> Without New START, we would rapidly lose some of our insight into Russian strategic nuclear force developments and activities . . . we would be required increasingly to focus low-density/high-demand intelligence collection and analysis assets on Russian nuclear forces.

These intelligence assets include our satellites, which are already in high demand, particularly in our operations in Afghanistan and Iraq, as well as in emerging threat locations such as Yemen, Somalia, and the Pacific. Furthermore, these national technical means can never supplant the quality of intelligence gathered from onsite inspections by American weapons experts in verifying the quantity, type, and location of Russia's nuclear arsenal.

Dr. James Miller, Principal Deputy Under Secretary of Defense for Policy, remarked:

> Onsite inspectors are a vital complement to the data that the United States will receive under New START. They provide the boots-on-the-ground presence to confirm the validity of Russian data declarations and to add to our confidence and knowledge regarding Russian strategic forces located at facilities around the country.

The failure to ratify may present a significant operational cost to our efforts in the war on terrorism. To compensate for the lack of a treaty, our satellite assets could be shifted to maintain some coverage of Russia, which, in the short run, would deny the capability of looking at other places, such as Sudan or Yemen, where we know al-Qaida and its affiliates are establishing sanctuaries. In the longer term, we may consider putting up new satellites—a tremendous cost that would be difficult to bear in a continuing budget crisis and one that would not give us the same kind of information as having inspectors on the ground.

Let me emphasize this again. If this treaty goes unratified, if we don't have inspectors on the ground, then we must rely on our national technical means of verification, which is significantly satellites. Those are, as General Chilton said, high-demand assets. If they are being flown over Russia, I cannot conceive, if we let this treaty elapse over several years, that military commanders will feel confident in not putting more and more satellites over Russia. That takes away from efforts right now to monitor troubled spots around the globe, and it is a real cost to the failure to ratify this treaty.

Ratifying this treaty is also a vital part of our relationship with Russia. It is the essential element in the process of controlling nuclear weapons between the United States and Russia.

I wish to quote my esteemed colleague and manager on the other side, Senator LUGAR, who has long been not only a leader in this effort but someone whose vision and actions already—particularly through his work with Senator Sam Nunn—have made this world a much safer place and one whose debt we are all in nationally. I thank him for that.

Senator LUGAR stated:

> We should not be cavalier about allowing our relationship with Moscow to drift or about letting our knowledge of Russian weaponry atrophy.

He is right, as he has been on so many issues with respect to national and international policy.

This process has had a long history of bipartisan support—from the first formal agreements with the Soviet Union under the Carter administration that limited nuclear offensive and defensive weapons, through both terms of President Reagan's administration, which produced the original START treaty, to the overwhelming support of the Senate to ratify these important agreements. All of these agreements had strong, bipartisan support.

This treaty is an important part of renewing our relationship with Russia and will provide the foundation for future negotiations on other nuclear issues.

Ellen Tauscher, Under Secretary of State for Arms Control and International Security, stated:

It's my calculation that we need to get this done now because every day that we don't is a day that not only don't we have boots on the ground, but it's also a day that we can't move on to other parts of the agenda. This was the New START Treaty, but it was also the start of the reset of the relationship, and it is a very big agenda.

We have other issues to consider, such as tactical nuclear devices, which the Russians may have and former countries of the Soviet Union may have. We have a whole set of issues. We have issues with respect to Iran and North Korea. If we can ratify this treaty, we now have momentum to move forward on these other issues.

We all know the proliferation of nuclear weapons threatens more than the security of just Russia and the United States. Indeed, this treaty is central to the continuing need for a worldwide effort to control nuclear weapons. It is every President's worst nightmare that somewhere in the world a nuclear accident will occur, that a rogue state will attain nuclear capability or a nuclear weapon or materials will fall into the hands of a terrorist group. This treaty is an important step toward reducing the number of nuclear weapons around the world and demonstrates to the international community that the United States and Russia are committed to this goal.

If we don't ratify this agreement and don't continue this 40-year process of working with Russia on limiting nuclear weapons, how can we get them to assist us effectively in addressing the nuclear ambitions of North Korea and Iran? What credibility will we have among the international community to restrain Iran's development of nuclear weapons if it is perceived that we have abandoned our longlasting, long-term, and mutually beneficial attempts with the Russians to limit our nuclear weapons?

We must do everything possible to counter proliferation through protection, containment, interdiction, and a host of different programs.

I again quote Senator LUGAR:

This process must continue if we are to answer the existential threat posed by the proliferation of weapons of mass destruction.

Every missile destroyed, every warhead deactivated, and every inspection implemented makes us safer. Russia and the United States have a choice whether to continue this effort, and that choice is embodied in the New START treaty.

We also understand, too, that as long as we have nuclear weapons, we have to have an effective nuclear arsenal. In its fiscal year 2011 budget, the Obama administration requested $7 billion for the National Nuclear Security Administration—NNSA—which overseas the U.S. nuclear complex. This request is about 10 percent more than the previous year's budget. That is a significant increase for any department in this government, particularly as we face challenging economic times and an increased deficit.

Indeed, Linton Brooks, the former NNSA Administrator under President George W. Bush, said: ''I'd have killed for that budget and that much high-level attention in the administration.''

So the issue of dealing with our nuclear arsenal is being addressed with more energy and more resources and more attention than it was in the preceding administration, and I don't think that argument can be used as an attempt to delay the ratification of this treaty.

Many have argued that before we consider this treaty, we must commit to substantial funding increases in the future budgets to modernize the nuclear infrastructure. We are doing that. While I support the need to ensure a safer, more reliable nuclear arsenal—and I applaud the Obama administration's efforts to commit significant resources to do so—we have to recognize this is a recent change. In fact, the Obama administration is not only bringing this treaty to the Senate, it also is bringing to the Congress a level of commitment that was lacking previously. I think both of those are necessary, both of those mutually reinforce one another and, together, are strong support for the ratification of this treaty.

During an Armed Services Committee hearing in July, I asked Directors of the national labs about the significant commitment of resources this administration has made to the nuclear enterprise. Dr. George Miller, the Director of the Lawrence Livermore National Laboratory, responded:

It is clearly a major step in the right direction. The budget has been declining since about 2005 . . . and this represents a very important and very significant turnaround.

The Obama administration has also outlined an $85 billion, 10-year plan for NNSA's nuclear weapons activities, which includes an additional $4.1 billion in spending for fiscal years 2012 through 2016. The $85 billion represents a 21-percent rise above the fiscal year 2011 spending level. As Secretary of Defense Robert Gates wrote in his preface to the April 2010 Nuclear Posture Review:

These investments, and the NPR's strategy for warhead life extension, represent a credible modernization plan necessary to sustain the nuclear infrastructure and support our Nation's deterrent.

Ratifying this treaty presents us with the opportunity to recommit ourselves to preserving and reinvesting in our nuclear enterprise, including the highly trained workforce, which is so necessary. But again, ratifying this treaty is such an essential part of our national security that it both complements and, in some cases, transcends simply reinvesting in our modernization efforts. But we are doing that, and that should give comfort, I think, to those who see that as an issue, which may—and I don't think so—present some inhibition in ratifying this treaty.

In all the discussions we have had on the content of this treaty, we have often failed to note the caliber and professionalism of the American negotiators who have worked tirelessly on this treaty. This elite cadre of experts have devoted their lives to serving our Nation in promoting nuclear arms control and doing it from very wise, very experienced, and I think very critical notions of what is necessary to protect the United States because that is their first and foremost responsibility.

This impressive team consisted of State Department negotiators, representatives from the Department of Defense's Joint Staff, and from STRATCOM, our military command that is responsible for all these nuclear devices. Most of them took part in the development of START I and the subsequent treaties. They have had the experience of years and years of dealing with the Russians, of understanding the strengths and the weaknesses of our approaches. They captured the lessons learned on what we need to know about the Russian nuclear enterprise and the best means of achieving our national strategic objectives.

This was not the labor of amateurs, this was the work of people who have devoted their lifetime to try to develop an effective nuclear regime involving inspections and verification, and they know more about what the Russians do and vice versa than anyone else. They were at the heart of these negotiations. Many of the principles behind these treaties are, as a result, complex and nuanced. Most Americans, frankly—and, indeed, many of our colleagues—don't have the means to invest the time to become versed in the technical aspect of launchers, telemetry, and verification regimes. These individuals have spent their lives doing that. We are quite fortunate they have committed themselves to this enterprise and that they have produced this treaty.

Furthermore, former Secretaries of State and Defense from both Republican and Democratic administrations and military commanders, including seven previous commanders of STRATCOM these are the military officers whose professional lives have been devoted to protecting America and commanding every unit that has a nuclear capability—have all urged us to support this START treaty. That is a very, I think, strong endorsement as to the effectiveness of this treaty and the need for this treaty. All of them understand this is in our best national security interest.

Again, all the commanders, all the individuals who have spent every waking hour and, indeed, probably sleepless nights, thinking about their responsibilities for nuclear weapons and their use, consider this treaty essential. That, I think, should be strong evidence for its ratification.

As I mentioned before, the New START treaty builds upon decades of

diplomacy and agreements between the United States and Russia. The New START treaty is appropriately structured to address the present conditions of our nuclear enterprise and national security interests, while building on the lessons we have learned from decades of previous treaty negotiations, from decades of implementing past treaties, of finding out what works on the ground, and setting nonproliferation goals for the future. It is important to understand how we got to this point today.

The United States and the Soviet Union signed their first formal agreements limiting nuclear offensive and defensive weapons in May 1972. The Strategic Arms Limitation Talks—known as SALT—produced two agreements—the Interim Agreement on Certain Measures with Respect to the Limitation of Strategic Offensive Arms and the Treaty on the Limitation of Anti-Ballistic Missile Systems. In 1979, these agreements were followed by the signing of the Strategic Arms Limitation Treaty—known as SALT II—which sought to codify equal limits on U.S. and Soviet strategic offensive nuclear forces. However, President Carter eventually withdrew this treaty from Senate consideration due to the Soviet's invasion of Afghanistan.

Throughout the 1980s, the Reagan administration participated in negotiations on the development of the Intermediate-Range Nuclear Forces—INF—Treaty, which was ultimately signed in 1988. At the negotiations, the Reagan administration called for a ''double zero'' option, which would eliminate all short- as well as long-range INF systems, a position that, at the time, was viewed by most observers as unattractive to the Soviets.

President Reagan also worked extensively to reduce the number of nuclear warheads, which led to the signing by President George Herbert Walker Bush of the initial START treaty in 1991. Again, the work of President Reagan, and the work of President George Herbert Walker Bush all led to the historic START I treaty. It limited long-range nuclear forces—land-based intercontinental ballistic missiles—ICBMs submarine-launched ballistic missiles—SLBMs and heavy bombers. START also contained a complex verification regime. Both sides collected most of the information needed to verify compliance with their own satellites and remote sensing equipment—known as the national technical means of verification.

But the parties also used data exchanges, notifications, and onsite inspections to gather information about forces and activities limited by the treaty. Taken together, these measures were designed to provide each nation with the ability to deter and detect militarily significant violations. The verification regime and the cooperation needed to implement many of these measures instilled confidence and encouraged openness among the signatories.

The original START treaty was ratified by the Senate in October 1992 by a vote of 93 to 6. We are building literally on the pathbreaking work of President Ronald Reagan and President George Herbert Walker Bush in limiting these classes of systems, using a national means of technology, and putting inspectors on the ground. I find it ironic that we might be at the stage of turning our back on all that work, of walking away from a bipartisan consensus—93 to 6. I don't think that would be in the best interest of this country.

In January 1993, the United States and Russia signed START II, which would further limit warheads. After some delay, the treaty eventually received approval by the Senate in January 1996, but it never entered into force, mainly because of the U.S. withdrawal from the ABM Treaty in June 2002. But, once again, there was another effort along these same lines to limit the numbers of launchers and warheads, and in that same spirit today we have this New START treaty before us.

During a summit meeting with President Putin in November 2001, President George W. Bush announced that the United States would reduce its operationally deployed strategic nuclear warheads to a level between 1,700 and 2,200 warheads during the decade. He stated the United States would reduce its forces unilaterally without signing a formal agreement. However, President Putin indicated Russia wanted to use a formal arms control process, emphasizing the two sides should focus on ''reaching a reliable and verifiable agreement'' and a ''legally binding document.'' Yet the Bush administration wanted to maintain the flexibility to size and structure its nuclear forces in response to its own needs and preferred a less formal process.

The United States and Russia ultimately did sign the Strategic Offensive Reductions Treaty, also known as the Moscow Treaty, on May 24, 2002. The Senate ratified the treaty on March 6, 2003, by a vote of 95 to 0; and the Russian Duma approved the treaty also. Once again, a high-level arms treaty negotiated by President George W. Bush with the Russians came to this floor and was unanimously approved.

In mid-2006, the United States and Russia began to discuss their options for arms control after START. However, the two countries were unable to agree on a path forward. Neither side wanted to extend START in its original form. Russia wanted to replace START with a new treaty that would further reduce deployed forces while using many of the same definitions and counting rules in START. The Bush administration initially did not want to negotiate a new treaty but would have been willing to extend some of the START monitoring provisions. President Bush and President Putin agreed at the Sochi summit in April 2008 they would proceed with negotiating a new, legally binding treaty. As I mentioned before, it wasn't until December 2008 that the two sides agreed to replace START before it expired but acknowledged this task would fall to the Obama administration. This administration took that work seriously and diligently and produced a treaty and now it is not only our opportunity but I think our obligation to ratify the treaty.

Some of my colleagues have already described measures in the New START treaty. Let me suggest some of the important details.

Under the New START treaty, the United States and Russia must reduce the number of their strategic arms within 7 years from the date the treaty enters into force. This treaty sets a limit of 1,550 deployed strategic warheads. All warheads on deployed ICBMs and deployed SLBMs count toward this limit and each deployed heavy bomber equipped for nuclear armaments counts as one warhead toward the limit. This limit is 74 percent lower than the limit of the 1991 START treaty.

Again, let me stop and say, I think if you asked every American the question: Would we be safer with fewer nuclear warheads in the strategic forces of Russia and the United States, the answer would be yes. I think people all recognize the potential danger of the existence of more than enough nuclear weapons to wreak havoc if they were somehow launched.

The New START treaty also sets a limit of 800 deployed and nondeployed ICBM launchers, SLBM launchers, and heavy bombers—which are warheads but also launching systems—puts separate limits on deployed ICBMs and deployed SLBMs and deployed heavy bombers. The limit, again, is less than half the limit established by the 1991 START treaty for deployed delivery vehicles. The sooner we ratify this treaty, the sooner these limitations will be in place and can be enforced.

We are at a point, I think, where we can continue the progress that began—the breakthrough, really, that began with President Reagan, President George Herbert Walker Bush, and, to a degree at least in spirit, carried on with the Moscow Treaty by President George W. Bush, and now can be ratified with legally binding terms in this New START treaty. Once ratified, the new START treaty will be in force for 10 years unless superseded by a subsequent agreement, and of course the United States and Russia have the option to extend the treaty for a period of no more than 5 years and there are withdrawal clauses if we believe our national security requires such a withdrawal. Furthermore, the 2002 Moscow Treaty will terminate with the adoption of this START treaty.

Like the first START treaty, the New START treaty establishes a complex verification and transparency regime that will guard against cheating and will enable the United States to monitor Russia's compliance with the treaty's terms.

The treaty's verification measures build on the lessons learned during the 15 years of implementing the 1991 START treaty and adds new elements tailored to the limitations of this treaty and to the application of this treaty.

Indeed, Assistant Secretary of State Rose Gottemoeller, the head of the U.S. negotiating delegation, stated, ''Much was learned over the 15 years in which the START treaty verification regime was implemented, and the United States and Russia sought to take advantage of that knowledge in formulating the verification regime for the new treaty—seeking to maintain elements which proved useful, to include new measures where necessary, improve those measures that were an unnecessary drag on our strategic forces, and eliminate those that were not essential for verifying the obligations of the New START treaty.''

These verification measures include onsite inspections—which we do not have at the moment—data exchanges—which we do not have at the moment—and notifications as well as provisions to facilitate the use of national technical means for treaty monitoring. To increase confidence and transparency, the treaty also provides for the exchange of telemetry information.

Under the terms of the treaty, the parties are required to exchange data on the numbers, locations, and technical characteristics of deployed and nondeployed strategic arms that are subject to the treaty. The parties also agreed to assign and exchange unique identification numbers for each deployed and nondeployed ICBM, SLBM, and nuclear-capable heavy bomber. We literally now will have the serial numbers with which we can monitor their systems. The treaty also establishes a notification regime to track the movement and changes in status of strategic arms. Through these notifications and the unique identification numbers, the United States will be better able to monitor the status of Russian arms throughout their life cycle.

The New START treaty will also allow each nation up to 18 onsite inspections each year. These inspections will include deployed and nondeployed systems at operating bases, as well as nondeployed systems at storage sites, test ranges, and conversion/elimination facilities. These onsite inspections will help verify and confirm the information provided in the data exchanges and notifications, ensuring that Russia is staying within the numbers of the treaty.

Some have asked why have a treaty if Russia is allowed to cheat? It is important to remind ourselves of several points. First, because of its commitment under the Comprehensive Test Ban Treaty, Russia has already been operating under tighter constraints than the United States. They are signatories to the Comprehensive Test Ban Treaty. In 1996, President Clinton and President Yeltsin signed the Comprehensive Test Ban Treaty. The Russian Duma approved the treaty in 2000, but we have yet to ratify the treaty, so Russia, indeed, is operating under more constraints with respect to comprehensive testing than we are.

Second, over a year has passed since the expiration of the original START treaty. Again, since that time there have been no verifications, no inspections, no process in place to work with Russia.

It seems ironic to me that people who are worrying about signing a treaty and having the Russians cheat are not preoccupied with what the Russians are doing today, since we can't verify. It does not seem to me to make sense to say the way you can eliminate the treaty is eliminate the laws so they cannot cheat.

Again, I think the logic as well as the history as well as the details of this treaty are so compelling and persuasive that we have to ratify this treaty.

Under Secretary of State Ellen Tauscher stated also:

> The urgency to verify the treaty is because we currently lack verification measures with Russia. The longer that goes on, the more opportunity there is for misunderstanding and mistrust.

There is a letter to Senator KERRY addressing concerns about cheating from Secretary Gates. Let me at this point commend the Senator from Massachusetts for his extraordinary leadership on this issue. No one knows more about the details of this treaty, the ramifications, the nuances than Senator KERRY. No one has been more articulate, no one has talked with more wisdom, more experience, and more compelling logic than the Senator from Massachusetts when it comes to ratification of this treaty. For his leadership, I thank him. Thank you, Senator.

But Secretary Gates wrote to Senator KERRY to remind him that:

> [T]he survivable and flexible U.S. strategic posture planned for New START will help deter any future Russian leaders from cheating or breakout from the treaty, should they ever have such an inclination.

Finally, ratifying the New START treaty will actually provide the right incentive structure to prevent cheating rather than to encourage it.

Let me conclude. Let me again remind my colleagues that this treaty will provide a significantly increased degree of certainty in a very uncertain world. It will continue our relationship with Russia, one that we forged over decades and one that we must use—not just for our mutual benefit but to act against even more pressing threats such as North Korea, such as Iran, and such as thousands of other emerging threats over the next several years.

This treaty will allow us to advance our counterproliferation initiatives across the globe. As such, I urge my colleagues to support ratification of the New START treaty.

I yield the floor.

The PRESIDING OFFICER (Mr. FRANKEN). The Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank the Senator from Rhode Island. I first of all thank him for his generous comments on a personal level. But let me thank him for his work. I think everybody in the Senate will agree he is, as a member of the Armed Services Committee, one of the most respected voices in the Senate, one of the most diligent, hard-working members of that committee. He knows and understands our weapons systems, our military needs, our security concerns as well as anybody in the Senate. I have enjoyed enormously the history that he provided in his discussion today. I think it is an important predicate to this debate and I thank him for his work very much, and for the comments he made on the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NELSON of Florida. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON of Florida. Mr. President, I support this treaty. The support is overwhelming, and it is bipartisan. The fact that the entire defense establishment and the Pentagon supports this treaty should be significant. The questions that have been raised about the modernization of our, basically, arsenal of nuclear weapons are legitimate. But they are questions that are constantly tended to not only by the appropriate committees in the Congress but by the defense and national security establishment.

The Cold War has now been over for two decades. The United States and Russia still possess 90 percent of the nuclear weapons. The fact is, we need stability in these huge arsenals of nuclear weapons between our two countries. To have this stability then allows us to be able to confront the rest of the world and the dangers that exist with regard to a potential nuclear threat.

While our nuclear triad remains an important component to our overall national security, it is no longer necessary for us to maintain such a huge stockpile. We are facing new threats, and we need new answers.

Here is what we know about the bottom line. This treaty enhances cooperation with Russia. It allows for onsite inspections. It allows for verification of Russia's nuclear arsenal. It also demonstrates to a worldwide audience our commitment to oversight and monitoring of nuclear weapons. This START treaty reduces the number of nuclear warheads in Russia by 30 percent. Preventing a nuclear terrorist attack is paramount. The more we create stability with Russia, it allows us then to increase pressure elsewhere on other countries that we are always concerned about having nuclear weapons. And we

are always concerned about those nuclear weapons getting out of their control and getting into the hands of people who would do us harm. Of course, we are certainly concerned about those other countries with nuclear ambitions—one, North Korea, that apparently already possesses nuclear weapons, and the country of Iran, which is certainly trying to possess nuclear weapons. It is commonsense that what you do is take an arsenal of some over 2,2200 nuclear weapons and reduce them. It is just common sense that you would, under a treaty between the two nuclear powers that have 90 percent of the nuclear weapons, that you would start to reduce delivery systems. It just makes common sense that we would be able to have an inspection and verification regime so that we can have that stability between Russia and the United States.

You can always bring up all kinds of things. This does not affect in any way our ability to have a national missile defense system. If we do not ratify this treaty—and it is not only my hope but it is my expectation that we are going to be able to get the 67 votes to ratify this treaty, but if we did not, we would put ourselves in a much less safe position because the previous START treaty expired a year ago.

Without START, there is no recourse or system to inspect warheads. We have been analyzing this treaty now for the last 7 months. The bipartisan support of this treaty, Senator KERRY and Senator LUGAR, along with my colleagues on the Senate Armed Services Committee and the Senate Intelligence Committee, we have been combing through these details.

We constantly have to develop new ways to safeguard our national security. Developing new state-of-the-art systems allows for a more vigorous inspection regime. We have built up some of that experience since the Cold War ended.

When it comes around to investment, the Obama administration has agreed to invest $85 billion into the nuclear weapons complex. The administration agreed to Senator KYL wanting another $4 billion increase. That is a modernization that needs to take place at several of our facilities. So let's move on and ratify this treaty. This treaty does not limit our missile defense options. We have clearly and consistently heard from Secretary Gates, Secretary Clinton, the Chairman of the Joint Chiefs of Staff, and many others in the Defense Department state that this is the case.

The treaty's ratification is long overdue in order to secure our Nation's security. I believe we must ratify this treaty now.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. CASEY. Mr. President, I ask unanimous consent to speak as in legislative session and as in morning business for up to 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT REQUEST—H.R. 6517

Mr. CASEY. Mr. President, I rise to speak about legislation that has broad bipartisan support and will have a positive impact, if we pass it, on job creation in the United States. This is H.R. 6517, which is known as the MTB, the miscellaneous terror bill. I will provide some highlights and then ask my colleague, Senator BROWN of Ohio, to comment as well. Then we have a consent request.

First, this bill supports manufacturing jobs. The National Association of Manufacturers supports the bill. When the last bill was signed into law earlier this year, the last MTB bill, at that time it passed the House by a vote of 378 to 43. This was in July. The national manufacturers praised it as ''a victory for job creation.'' This bill, combined with the last bill of the same kind, is expected to increase U.S. production by at least $4.6 billion over the next 3 years and to support 90,000—imagine that—manufacturing jobs, according to a study.

As I said before, and should repeat again, it has strong bipartisan support. The bill has 40 Republican-sponsored provisions and 40 Democratic-sponsored provisions. It has not just bipartisan support but the support of manufacturers across the country. Domestic producers in the United States are relying on the new provisions in the bill to remain competitive, and these same producers are more likely to grow and support good-paying manufacturing jobs, just at a time when we need jobs in general, but in particular, there is a crying need for manufacturing jobs in the United States as well as a State such as the Commonwealth of Pennsylvania.

A couple of words about one aspect of the bill and then I will turn to Senator BROWN.

One of the provisions, of course, is trade adjustment assistance. The 2009 trade adjustment assistance—known by the acronym TAA—those reforms made significant improvements in this program for workers. Since these changes were implemented, more than 155,000 additional trade-impacted workers who would not have been certified under the former program became eligible for trade adjustment assistance for worker benefits and training opportunities. In total, more than 367,000 workers were certified as eligible for that support in that same timeframe.

A word about Pennsylvania. We have lost—and I think the corresponding number is similar in other States—but imagine this: Since 2001, less than a decade, our State has lost 200,000 manufacturing jobs. This program, the Trade Adjustment Assistance Program, has played a vital role in helping those workers who have lost their jobs in that time period.

There is much more I could say about Pennsylvania, and I will hold that for later. But I did want to turn to my colleague from Ohio, who has worked tirelessly on this issue here in the Senate and in the years when he was a Member of the House of Representatives.

Mr. BROWN of Ohio. Mr. President, I thank the Senator from Pennsylvania. I agree with him that this bill has as broad a public support as you get on a trade bill, a bill that deals directly with tariffs and trade relationships and manufacturing and help for workers who are laid off and help both with training dollars and with health care dollars and health care tax incentives.

It is supported—that is why it passed, I believe, by a voice vote in the House of Representatives last night, meaning nobody spoke out against it when it was passed overwhelmingly by voice vote. There may have been a few scattered ''nos.'' I am not even sure there was that.

The ranking member of the Ways and Means Committee, who will be chairman, Congressman CAMP, from Michigan, was supporting it. The Ways and Means outgoing chairman, also from Michigan, Congressman LEVIN, also supported this.

The AFL–CIO supports it. The National Retail Federation and the U.S. Chamber of Commerce recognize this is good for the country. That is why I am so hopeful my colleagues will not block this legislation.

One person standing up in this Chamber and blocking legislation because it is late in the year—I do not know if they are trying to cut some deal or what the reason is they would use for blocking it. But forget the politics of the support for it around the country, but look what it does that is so important: trade adjustment assistance. Since 2009, 367,000 workers were certified eligible for TAA, trade adjustment assistance. These workers use TAA to acquire new skills. When a worker is laid off, in Erie or right across the State line in Ashtabula, OH, you want to encourage them to go back to school and become, for example, a nurse, if they were working in a plant, and they are 45 years old, or you want them to go back to school and become a computer operator or to have some kind of job that you would hope would pay something comparable to the job they lost. This legislation is essential to do that.

The health care tax credit program helps these trade-affected workers and retirees purchase private health insurance to replace the employer-sponsored coverage they lost. We want people to be able to get back on their feet.

An objection to this motion by Senator CASEY, a ''no'' vote on this, really does say: Stop. We are not interested in helping you do this.

If we allow the program to go back, if this is defeated, the jobs that are shipped to China or India or other countries we do not have a trade agreement with would no longer be eligible.

I can name by name factories in places such as Cleveland and Mansfield and Toledo and Dayton—and Senator

CASEY can in Pittsburgh and Philadelphia, and Altoona and all over his State—companies that have shut down or moved much of their production to China or India. We want them to be eligible, even though we do not have a bilateral trade agreement with those countries as we do with NAFTA or CAFTA or some of the other bilateral trade agreements we have.

That is why this is so important. I particularly ask my colleagues not to object to the passage of this bill. It has passed the House. We have the exact same language here. It is vetted. The Republican and Democratic leaders in both Houses say we ought to do it. Senator BAUCUS has worked very hard, harder than anyone, to renew TAA before the end of the year.

But I particularly am concerned about the health care tax credit. We have tried to come to the floor and move that already. We have not been successful in doing it because of the peculiar nature of Senate rules and that a very small handful, sometimes as few as one, can stop legislation.

But without the HCTC, come January 1, there will be thousands of people in my State who lose their health insurance. Hundreds of them—if not several thousand—have spouses who will lose their health insurance because of what this will do in terms of the tax credit for health insurance.

So I guess my question to Senator CASEY—and then he can make the motion, which I fully support—is, why? What do you see in this that anybody would object to? I am at a loss to understand why anybody would object to this.

Mr. CASEY. Mr. President, I cannot understand it, especially when you consider the fact that we have 15 million Americans out of work. I know the numbers are high in all of our States. In Pennsylvania, we are fortunate. We are below 9 percent. We are at about 8.8 percent right now—8.6 percent, actually, is the most recent number. That number has been going down, thank goodness. But it is still just below 550,000 people. It was up above 590,000. So we are making some progress, but we are badly in need of manufacturing jobs, and I know the same is true in Ohio.

Mr. President, as if in legislative session, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 6517, the Omnibus Trade Act, which was received from the House and is at the desk; that the bill be read three times and passed, and the motion to reconsider be laid upon the table, with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. SESSIONS. Mr. President, reserving the right to object, and I will object, I wish to share a few thoughts with my colleagues. I think if they knew the basis for the objection I have, they would be supportive of it, and I do object.

The PRESIDING OFFICER. Objection is heard.

Mr. SESSIONS. Mr. President, let me say, with regard to this legislation, I have supported free trade probably more than my colleagues. I believe in the Andean Trade Agreement that is a part of this. I support the trade assistance that is in the bill and would be glad to remove my objections to them if they wish to move forward with that.

But I have worked for 2 years to try to obtain a simple justice to close a loophole in the tariff laws that has impacted and will close a sleeping bag textile manufacturer in my State. It is in Haleyville, in Winston County, AL. It is in northwest Alabama. It is a poor county. They have a great history. They call it ''the free State of Winston.'' They claim they seceded from the State of Alabama during the Civil War, and most of their public officials from then until today remain Republicans. But they are an independent, hard-working people. This bill, as written, will close that plant, and it should not happen.

I want to share with you the Chamber of Commerce, NAM and the AFL–CIO have been made aware of this, as we have discussed it over the past years, and they believe this company should receive some relief. But the people who put the bill together did not. And I am very much of the belief—I know my colleagues are—that when you have good people in your State who are being put out of business by a company that was moved to Bangladesh to try to capture this loophole—it is not a little matter.

These are human beings. As I said, I do believe in trade. I think it is best for the world. But I would say to my colleagues, we have to have fair trade. We have to have just trade. And nations around the world, I think, have taken advantage of the overconfidence of the United States in our economy that they can cheat on agreements and manipulate agreements and close down businesses in the United States, and that somehow we are going to pass on by, and that eventually we will get to the point where we just have banking and hospitals in this country.

But manufacturing is an important part of our economy. This company has been able to withstand competition from China and has been successful. But they cleverly figured out how to move it to Bangladesh, using 85 percent Chinese products, and shipping it to the United States and getting around the small tariff that makes a difference between success and failure.

I plead with my colleagues to consider the justice of this matter. Move your bill. I do not think there is any real substantive objection to it. The U.S. Trade Representative expressed a lot of sympathy for this situation, and I thought somewhere the bureaucrats and the politicians were going to put together a bill that would grant relief so this company would have a chance to continue to be very competitive. They are modern, have high-tech equipment, sewing equipment, good employees. They pay them health care and benefits far more than they are paid anywhere else in the world. And they can still win except for this loophole.

I am at a point where I am not going to go for it anymore. I am not going to stand by and allow nations to cheat on their trade agreements and manipulate trade agreements that, in effect, destroy our industries. I am aware that the Smoot-Hawley trade agreement was part of the Depression. I know all that argument, and I am not against free trade. But I am telling you, we need to stand and defend our industries. I know both of my colleagues share that.

I want to say, I feel strongly about it. I believe this is just. And I think this bureaucracy, this Senate, this Congress, ought to listen to what we are saying and give us some relief. Otherwise, I would be willing to move the parts of the legislation that are not directly relevant to this.

I thank the Presiding Officer.

Mr. CASEY. Mr. President, let me say by way of response to our colleague from Alabama, I have great respect for and appreciate the sentiments he is expressing for workers and employers in his State, fighting hard for them, and the concern about jobs going overseas.

I would say a couple things: No. 1, we did have an opportunity this fall to vote on legislation which would provide both incentives and disincentives to the shipment of jobs overseas by changing the Tax Code. We had a debate about it. One side voted for it—this side—and the other side did not. I just wanted to make that point.

But the other point is that, look, we have a disagreement about this. What I would hope we could do is try to find a way to help firms such as the one that our colleague is trying to protect, and that is certainly understandable. But, at the same time, if we do not pass this bill in totality, we are going to shortchange the ability to impact not just the creation of 90,000 manufacturing jobs around the country, including in all of our States, but also trade adjustment assistance. So for the hundreds of thousands of people—tens of thousands in a State such as Pennsylvania, and potentially even more than that, and certainly in all of our States—we have to get this done even if we are trying to work on problems that arise that are specific to one employer or one portion of a particular community.

Mr. SESSIONS. Mr. President, I will be glad to discuss it with my colleague, but I would note that the exemption I am concerned about goes to Third World countries. They are given, under the generalized system of preferences, or GSP, the right to import pretty much duty-free, but it comes with a crucial condition. That condition is that you do not get to import into the United States under this zero tariff if you are competing with American companies and American jobs—unemployed

Americans. If we don't have that manufacturing in the United States, they get this exemption. This is a loophole they achieved under the tariff rules by calling a sleeping bag not a textile, and it is a textile and it should be covered by this. That is all I am saying.

I would ask my colleagues, isn't it true that if the leadership of both parties agree to this amendment, there is plenty of time for it to be accepted, go back to the House, and be passed before we recess? That is what I would ask to be done.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. BROWN of Ohio. I see some real potential here. I thank the Senator from Alabama. I know Senator CASEY and I have fought for American manufacturing for pretty much our whole careers. I know Senator SESSIONS has had some disagreements sometimes with our trade policy in this country. I think our trade policy has done more—and the way we do globalization has done as much damage to our country as almost anything in terms of jobs, especially manufacturing jobs.

There are several parts of this bill, as the Senator recognizes—the GSP, about which the Senator obviously has some strong feelings; there are things the Senator has sounded as though he was agreeing with on TAA and with HCTC, with the Andean, and with the other part of the trade issue—I am drawing a blank on the other part of the tariff issue. It seems to me that except for the general standardized preferences, or GSP, it sounds as though we have a lot of agreement.

I hope I can speak for Senator CASEY as well in saying I will certainly work with the Senator on trying to fix the part of the GSP that doesn't work for Alabama. If we can either separate the other ones out and get a UC or work with them together and go back to the House, we are certainly willing to do that.

I just don't want to see us adjourn—whatever day we adjourn, whether it is Monday or Tuesday or Christmas Day, I don't want to see us walk out of here without helping with trade adjustment, without helping with the health care tax credit, and leaving out Andean trade preferences and those things. So let's work together and see if we can do this in the next 24 hours and come back to the floor and work something through, if Senator CASEY agrees with that too.

Mr. SESSIONS. I thank Senator BROWN and Senator CASEY. I do believe that is possible, and I think maybe there is a growing belief that somewhere in this debate about trade, we can reach a common accord across the aisle that, yes, we want to have trade, we want to expand trade that can benefit America, but at the same time we have to not unnecessarily destroy American jobs, and this little part of it is damaging. I tried last year. We spent a year talking about this. It is not something that just got sprung on the floor here at this moment. I think there is a way out of it.

I thank the Senators for being open-minded today.

Mr. CASEY. I thank both of my colleagues.

Mr. President, I yield the floor.

Mr. BAUCUS. Mr. President, I support H.R. 6517. This bill extends three of my longstanding trade priorities, Trade Adjustment Assistance, TAA, the Generalized System of Preferences, GSP, and the Andean Trade Preference Act, ATPA. TAA provides job training for workers here at home, training that is more important than ever in these difficult economic times. And GSP and ATPA support thousands of jobs here in the United States and provide livelihoods for millions of people in the developing world as well. If we do not act, these programs will expire on December 31. The bill also includes miscellaneous tariff bill provisions, and provisions to replenish the wool trust fund, all of which will support jobs in Montana and across America. I urge swift passage of this bill.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. DEMINT. Mr. President, I know we are discussing a number of different issues on the floor right now, and one of the most important, as my colleagues know, is the START treaty with Russia, and I wish to take a few minutes to talk about it.

We all take our responsibility of advice and consent very seriously for nominations and particularly on a treaty of this magnitude. I am very disappointed that on something of this importance, we are bringing it up in a lameduck Congress at a time when Americans are distracted by one of the most holy holidays for Christians in this country.

None of us minds working through the holidays or through the night on the Nation's business, but it is important that Americans participate in this process with us. They know many of the people who will be voting on this treaty are those who have been turned out of office by Americans in the last election, and they will also know that the reason to rush it through before new Members are sworn in is that those who will be carrying the voice of Americans into the next session may have a different view of some of the things we are doing here.

It is important, as we look at this START treaty, to understand the implications and the background of this treaty. A number of my colleagues have talked about various aspects of it—about verification, the number of missiles—and I will touch on a few of these things.

I respect the administration's intent to try to enlist the cooperation of Russia on other major issues, such as dealing with Iran and North Korea, and that this is a symbol of our willingness to work with them. I understand that. I understand that is one of the reasons a number of past Secretaries of State have said we need to do this.

I think the administration and many recognize that this treaty only deals with intercontinental ballistic missiles—ICBMs—missiles we have had for years on the shelf as a deterrent, as part of that strategy of mutually assured destruction. Russia had its number of missiles and we had ours, with the understanding that if they fired missiles at us, we would fire missiles at them, and we would destroy each other—mutually assured destruction. These missiles don't defend Americans, except if you say maybe to deter Russians from firing their missiles at us. But as we understand that this treaty only deals with the ICBMs, we recognize it doesn't include many other weapons, such as tactical nuclear weapons, and we also understand it does not have any prohibitions on other countries developing nuclear weapons, nuclear missiles.

We also understand that Russia has basically already met the limitations in this agreement. They are not going to have to draw down their number of missiles or warheads. The United States will reduce the number of missiles—ICBMs—it has. But, again, the other weapons, which are perhaps more dangerous and of more concern to some of our allies, are not included in this treaty.

So I think part of the rationale of moving through with this is that it only deals with one type of missile that is perhaps of limited importance in today's world—although certainly the deterrence will continue to be part of our strategy—and we are just dealing with these so-called strategic weapons and not tactical weapons, and that we can give this up, we can reduce the number we have in order to gain Russia's cooperation in other matters. I understand that rationale. But this is more than just a treaty between the United States and Russia; it is a signal to our allies and to the whole world on what posture America will take in the future on defending our allies, what posture we will take particularly on missile defense. That is where I wish to focus most of my comments today.

There was no argument in the hearings that this treaty is an implicit and explicit agreement by the United States not to develop a missile defense system that can defend against Russian missiles. That should be clear, and there is no argument.

I think we have played with words a little bit in saying it does not limit our plans in missile defense. Our plans are to develop an unlimited system that can shoot down a rogue missile. But in the hearings with Secretary Gates, Secretary Clinton, Chairman KERRY, it was made very clear that this treaty—it made it clear to the Russians and to the whole world that the United States would not even attempt to develop a missile defense system capable of shooting down multiple missiles.

Now, if Russia was the only country in the world capable of developing multiple nuclear missiles, perhaps we

could discuss that within that context. But as we know today, there has been a proliferation of nuclear technology to many countries, including Iran and North Korea. We know that other countries such as Pakistan have nuclear weapons. It is not unrealistic to suggest that within a few years there may be numerous countries that have capabilities to fire multiple missiles at the United States or one of our allies.

Americans need to know we are agreeing with this START treaty not to even attempt to develop a system to defend our citizens or our allies against multiple missiles. In the hearing, I made this very clear with a question: Is it our intent not to develop a missile defense system capable of defending against Russian missiles? Senator KERRY, Secretary Gates, and Secretary Clinton agreed that would destabilize our relationship with Russia. So everyone should be clear about what is happening here—that in order to enlist Russia's cooperation in other matters, we are agreeing to a continued strategy of mutually assured destruction not just with Russia but with any country that chooses to develop the ability to fire multiple missiles at one time.

I don't think this treaty is going to decrease proliferation. I think on its face it will increase the proliferation of nuclear weapons around the world. Our enemies will know we don't have the ability to defend against missiles, and our allies will develop their own nuclear weapons because they know we no longer have the capability to defend against not just Russia's missiles, not just strategic missiles, but against tactical nuclear weapons.

Russia has a 10-to-1 advantage right now with modern tactical nuclear weapons that are developed not as a deterrence but to be used on the battlefield. This treaty does not limit their ability to continue to develop these weapons. This treaty implicitly and I think explicitly says we are not going to develop any means to shoot down those shorter range missiles.

For us to be considering something of this gravity during the holidays, when Americans are rightly paying attention to things other than politics, and to rush this through with a few days of debate, when for the last treaty I looked at, we had 9 days with many amendments, a lot of debate, and finally agreement—we will not only have limited debate and limited amendments, but we are going to try to push this through before we leave to go home for Christmas. The process is wrong.

I would appeal to my colleagues to let this go until next year. Let's give a specific time agreement next year that we will debate this and we will have a vote on it and we will offer amendments and vote on those amendments and show the American people this was a full debate with full transparency about what is in this treaty and then let Senators vote on it, the Senators Americans have elected to speak for them here in the Senate.

I have heard folks say on the Senate floor that we need to rush into this because we can no longer go days, weeks, and months without verification. I think a close look at the verification of the last treaty shows we weren't very close to what was actually going on. There are big loopholes in the verification aspects of this treaty, loopholes that are big enough to hide missiles and nuclear warheads, and I don't think there is a lot of debate about that. A few more weeks is not going to put our country in any more jeopardy. In fact, I think rushing this through could make the world much more dangerous.

My hope is that my colleagues, particularly my Republican colleagues, those who have expressed an interest in voting for this, will say: Enough is enough. Pushing this legislation, along with repealing don't ask, don't tell, the DREAM Act and other bills we are doing at the same time, and all of these requests for unanimous consent to pass bills that people haven't read—there is just too much business, too many distractions to take on something of this gravity at this time in a lameduck Congress.

So I appreciate the opportunity to speak. I respect those who feel as though this treaty is something we should do. But it is my hope that those people will reflect on the importance of this treaty, the signal it sends to our allies all over the world, and work with us to get an open and honest debate on this treaty at the beginning of next year.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. ISAKSON. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE GOLD STANDARD AMONG MORTGAGES

Mr. ISAKSON. Mr. President, on the 8th day of November of this year, I, along with Senator HAGAN from North Carolina and Senator LANDRIEU from Louisiana, sent a letter to Secretary Donovan, Chairman Bernanke, Acting Director DeMarco, Chairman Sheila Blair, Chairman Schapiro, and Acting Comptroller Walsh, asking them to look closely at the 941(b) requirements of the Dodd-Frank bill relating to risk retention and to urge them to complete their work on carrying out the intent of that legislation through the amendment that the three of us cosponsored to create the exemption for risk retention requirements by the definition of a qualified mortgage.

I rise today, on one of the final days in this Congress, to raise the importance of this issue because of the current fragile condition of the U.S. housing economy and, most importantly, to underscore what a handful of Senators in this body did last summer in the financial reform bill to begin to improve and strengthen the eroding lending standards that got us into this position in the first place.

I ran a business for 22 years in residential housing in Atlanta. During that time, the average default rate, or delinquent rate, was about 3 percent on mortgages. The foreclosure rate was less than 1½. Things have changed dramatically in the last few years because of sloppy underwriting, no credit, and no documentation. We have seen some unbelievable new numbers. To give you some perspective, according to FDIC, in the third quarter of 2010, total mortgage delinquencies across the country were about 10 percent of the market, or 1 in 10. In Georgia, that number exceeded 12. In the 100-percent government-guaranteed FHA market, the delinquency rate is just above 13 percent and, sadly, in Georgia, in the third quarter that rose above 20 percent—1 in every 5.

We have mounting problems with growing housing inventory—problems that are only made worse with excessive fees currently charged by Freddie Mac and Fannie Mae, frankly, keeping many from being able to refinance into a more affordable mortgage, therefore, becoming delinquent and being foreclosed on.

I am extremely proud of the bipartisan provision that Senator HAGAN, Senator LANDRIEU, and myself added to the financial reform bill. Earlier this year, I began working with Senators LANDRIEU and HAGAN to develop the concept of a qualified residential mortgage, QRM or, as I call it, a ''new gold standard'' for residential mortgages, which ultimately was included in the credit risk retention title of 941(b) in the financial reform bill. While risk retention can serve as a strong deterrent to excessive risk taken by lenders, it also imposes the potential of a constriction of credit in the mortgage market.

I want to make this point clear. The risk retention provision of the Dodd-Frank bill would require an originator of a mortgage to retain 5 percent of that mortgage as risk retention. As we all know, tier one capital requirements by the banking system is only 8 percent for the solid footing for the entire bank, and we were going to add another 5 to it just because they make mortgages. What is going to happen is that very few mortgages will be made, and those that will be made will be only the most pristine ones, not necessarily the ones that meet the needs of middle America.

Likewise, our standard makes sure venturesome lending practice can never become qualified residential mortgages. We specifically delineate in the amendment that things such as balloon mortgages, no-doc loans, drive-by appraisals, and interest-only loans, loans with huge prepayment penalties, and negative amortization mortgages would never be considered a qualified mortgage. Against those loans, you

should require risk retention and additional security on the part of the lenders.

But in terms of mainstream America, we need to go back to the good old days of the 1960s, 1970s, and 1980s, where if you got a residential mortgage, you had to get a letter from your boss saying that you had a job, your bank had to certify that you had the money in the bank account to pay the downpayment, your credit report had to be a good one saying you could pay your mortgage, the appraiser had to use legitimate information to appraise the house, and the underwriters had to match your debt against your income to ensure that they weren't at too high a risk. That is why in those wonderful days we only had 1.5 percent in foreclosures and less than 3 percent in defaults.

But the easy underwriting that started in 2006, and then accelerated, caused us lots of problems. That is what we are here to try to stop today. I am optimistic that our amendment will be the first step to correct the lending practices of the past and will set on a better path in the future.

In the law, we instructed the regulators to use specific criteria in conjunction with loan performance data to define the contours of the quality residential mortgage exemption. As we said in our November 8 letter to the regulators responsible for writing these rules:

It was our clear legislative intent that, underwriting and product features that data indicate a lower risk of default must be considered. Prior to sponsoring the Amendment, we were provided with analyses of loan level data that demonstrated that loans that satisfy the elements set out in our Amendment default less frequently and cure more often than riskier loans. We understand that each of your agencies have been provided with this analysis, updated to reflect loan performance in 2010. In particular this analysis demonstrates that historically tested standards, including full documentation of borrower income and assets, reasonable total debt-to-income ratios and restrictions on riskier loan features, such as negative amortization and balloon payments, significantly reduce the risk of default. In addition, for loans with lower down payments that have combined loan-to-value ratios greater than 80 percent, the protections provided by mortgage insurance result in lower losses for lenders and investors and fewer foreclosures for borrowers than similar loans that lack insurance. The mortgage insurance provision ensures that the qualified residential mortgage exemption can serve those consumers that cannot afford a 20 percent down payment while putting substantial private capital at risk to drive underwriting discipline.

I am aware these agencies are actively engaged and meeting. I recently received a response from the regulators assuring me that they will be implementing our QRM legislation ''in a manner consistent with the language and purposes of that section.'' It is my hope that these regulators will follow the intent of the legislation, by ensuring a broad spectrum of qualified borrowers will fit under the umbrella of protection under the qualified residential mortgage safety and soundness provisions.

I look forward to continuing to work with my colleagues on the other side in the new Congress to help to continue to improve our system of housing finance. It is with great anticipation that we await the administration's plans to do with Freddie and Fannie.

I have my own ideas, which I have expressed on this floor. I look forward to working with Chairman TIM JOHNSON and Ranking Member SHELBY in the months ahead.

The crisis we have experienced in large foreclosures and defaults, the declines in housing values, and a protracted housing recession, will only be cured in time when we return to a strong and vibrant lending market, where qualified loans and borrowers come together to fuel the housing market once again. Until that happens, I fear that the recession and the recovery we are in will be protracted and will be slow, and the American dream will still be out of reach of too many Americans.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

RARE EARTH ELEMENTS

Mr. BOND. Mr. President, I come to the floor today to talk about the biggest problem no one's ever heard of—America's 100 percent dependence on foreign countries for our rare earth needs—and to introduce legislation that is an essential part of the solution.

If you are at all like me, you may be scratching your head over what exactly are rare-earth metals?

To go back in time a little, more so for some than others, when you were studying the Periodic Table in high school chemistry, rare-earth elements are the metals you were told you would never have to worry about.

Unfortunately, that is the problem—until recently, no one was worrying about rare-earth elements.

But in fact, these metals are critical to U.S. economic and national security.

Back to that high school chemistry class again, rare-earth elements are metallic minerals that significantly enhance the performance of other materials.

These elements are used in small amounts in about every advanced industrial product—we are talking about a wide array of products that Americans depend on every day—from MRI machines to cell phones to computers.

In addition to being an essential component in everyday high-tech products, rare-earth elements are also necessary to our defense industrial base.

Precision guided missiles, secure communications, advanced jet engines, unmanned aerial systems, smart munitions, stealth technology and advanced armor all are rare-earth dependent systems and technologies.

Rare-earth elements also hold unique chemical, magnetic, electrical, luminescence, and radioactive shielding characteristics for environmental and ''green technology'' applications—like hybrid car engines.

Despite the importance of rare-earth elements, the United States is currently 100 percent import-dependent for our rare-earth needs.

Let me spell that out for you—while the United States today is the world's sole economic and military superpower, there is not a single U.S. or North American company actively producing rare-earth elements, metals, alloys or rare-earth magnets.

The United States Geological Survey, USGS, the National Academies, and the National Materials Advisory Board have all determined that rare earths are ''Strategic and Critical'' to U.S. Industry and National Defense.

Yet, the U.S. is 100 percent import dependent upon these materials?

How could we have let this happen?

How could we let a critical component of our economy become beholden to foreign entities?

Concerns about the world's dependence on rare-earth minerals are not just some attempt to read the tea leaves about some futuristic problem.

In fact, the problems for some of our allies have already started.

Over the past several months, Japan has sounded the alarm over their inability to acquire supplies of the rare earths to their companies.

What if our own Nation's ability to import rare-earth elements was restricted or stopped all together?

According to a Government Accountability Office report, GAO, earlier this year, it could take as long as 15 years to rebuild our rare-earth industry.

Common sense tells us that—considering our dependence on rare-earth metals—we don't have another day to waste.

That is what this bill I am cosponsoring today with my good friend, and fellow retiring colleague, Senator BAYH, is all about.

Our legislation will promote the domestic supply and refinement of rare-earth minerals.

It is time to take necessary actions to redevelop a domestic resource of rare-earth elements.

A domestic resource that will ensure we protect our national defense, technology-based industries, and the industrial competiveness of the United States.

Currently, there are no active rare-earth production facilities in the Western Hemisphere.

However, the Pea Ridge mine in Sullivan, MO, is one of two permitted, but shuttered, mines in the United States.

It is here where, according to the U.S. Geological Survey, the greatest concentrations of both light and heavy rare-earth elements exist, particularly those needed for the defense industry.

Rare-earth ore, or oxides, extracted from these mines need to be reduced into a more pure elemental state before being used by industry.

Redeveloping our rare-earth capabilities will be no easy task—in fact, the hurdles for financing such a refinery are significant.

The cost to construct a modern rare-earth refinery capable of supplying a U.S. consumption of 20,000 tons per year is estimated at more than $1 billion.

I do not believe it is practical or desirable for the United States to depend upon any single rare-earth mining company to supply our Nation's rare-earth production or supply chain requirements.

This is why our legislation will require a feasibility study on building a U.S. cooperative refinery to process rare-earth ores from mines in the United States or other allied countries.

Such a cooperative, similar to our successful agricultural co-ops all across rural America, will set the stage for the U.S. Government to establish reserves and protect national security.

To brag on my home State for a minute—Missouri would be ideally suited for the location of a cooperative refinery, given the importance of the Pea Ridge deposit.

Missouri's experienced mining and minerals-processing workforce, its favorable access and costs to the utilities needed to operate a refinery and central location and transportation infrastructure all make Missouri well positioned to help preserve our Nation's strategic and economic security.

In dealing with the tremendous costs of establishing a production and refining facility, the legislation would also provide the Department of Defense $20 million to support the defense supply chain and also $30 million for the development of rare Earth magnets.

The time has come for our country to act and for this Congress—certainly the next Congress—to take the necessary steps to secure our economic and strategic future. By ensuring that our Nation has its own domestic supply of rare Earths and the ability to process them, we should be able to compete in the 21st century.

The bill Senator BAYH and I have introduced will do just that. While introducing legislation during the last days of the lameduck may seem like a ''Hail Mary,'' this issue is too important to continue to ignore, and we felt it was necessary to launch a ''Hail Mary'' in hopes there will be others of our colleagues who will catch it and run with the ball in the next session of Congress—to mix up the metaphors badly.

In fact, ignoring our growing rare Earth needs and the overseas dominance and China's monopoly is how we got into this mess. Senator BAYH and I have laid the groundwork for this bill, and I hope my colleagues in January will call it back up and see it passed.

The bottom line is this: Just as we cannot afford to be dependent solely on foreign oil cartels for our Nation's energy, counting on any one or a few countries to supply all of America's rare Earth needs crucial to our technological innovation and national security needs is too risky a bet.

I thank my colleagues for listening. I hope they will take up the ball in the next Congress and make sure we begin to deal with this very important problem very seriously.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, let me just say, at this point, to the Senator from Missouri, that I greatly appreciate the comments he made. This question of our dependence on a whole series of things which matter to our national security, including these rare minerals, is an enormously important one, and I think he has done a good service to the Senate to bring it to our attention. So I thank him for that.

Let me also say we are open for business. We would love to get going on some amendments on the START treaty, and I look forward to the opportunity to debate those amendments and, hopefully, have some votes on them in the course of the afternoon.

Until such time as that may become a reality, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KERRY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. KERRY. Mr. President, I ask unanimous consent to proceed as if in legislative session for the purpose of processing some cleared legislative items.

The PRESIDING OFFICER. Without objection, it is so ordered.

REAL ESTATE JOBS AND INVESTMENT ACT OF 2010

Mr. KERRY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 505, H.R. 5901.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5901) to amend the Internal Revenue Code of 1986 to exempt certain stock of real estate investment trusts from the tax on foreign investment in United States real property interests, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. KERRY. Mr. President, I ask unanimous consent that the amendment at the desk be considered and agreed to, the bill, as amended, be read a third time, passed, and the motion to reconsider be laid upon the table; that the title amendment which is at the desk be considered and agreed to, and that any statements relating to the measure be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 4834) was agreed to as follows:

(Purpose: In the nature of a substitute)

Strike all after the enacting clause and insert the following:

SECTION 1. AUTHORITY OF TAX COURT TO APPOINT EMPLOYEES.

(a) IN GENERAL.—Subsection (a) of section 7471 of the Internal Revenue Code of 1986 (relating to employees) is amended to read as follows:

''(a) APPOINTMENT AND COMPENSATION.—

''(1) CLERK.—The Tax Court may appoint a clerk without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. The clerk shall serve at the pleasure of the Tax Court.

''(2) JUDGE-APPOINTED EMPLOYEES.—

''(A) IN GENERAL.—The judges and special trial judges of the Tax Court may appoint employees, in such numbers as the Tax Court may approve, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Any such employee shall serve at the pleasure of the appointing judge.

''(B) EXEMPTION FROM FEDERAL LEAVE PROVISIONS.—A law clerk appointed under this subsection shall be exempt from the provisions of subchapter I of chapter 63 of title 5, United States Code. Any unused sick leave or annual leave standing to the law clerk's credit as of the effective date of this subsection shall remain credited to the law clerk and shall be available to the law clerk upon separation from the Federal Government.

''(3) OTHER EMPLOYEES.—The Tax Court may appoint necessary employees without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Such employees shall be subject to removal by the Tax Court.

''(4) PAY.—The Tax Court may fix and adjust the compensation for the clerk and other employees of the Tax Court without regard to the provisions of chapter 51, subchapter III of chapter 53, or section 5373 of title 5, United States Code. To the maximum extent feasible, the Tax Court shall compensate employees at rates consistent with those for employees holding comparable positions in courts established under Article III of the Constitution of the United States.

''(5) PROGRAMS.—The Tax Court may establish programs for employee evaluations, incentive awards, flexible work schedules, premium pay, and resolution of employee grievances.

''(6) DISCRIMINATION PROHIBITED.—The Tax Court shall—

''(A) prohibit discrimination on the basis of race, color, religion, age, sex, national origin, political affiliation, marital status, or handicapping condition; and

''(B) promulgate procedures for resolving complaints of discrimination by employees and applicants for employment.

''(7) EXPERTS AND CONSULTANTS.—The Tax Court may procure the services of experts and consultants under section 3109 of title 5, United States Code.

''(8) RIGHTS TO CERTAIN APPEALS RESERVED.—Notwithstanding any other provision of law, an individual who is an employee of the Tax Court on the day before the effective date of this subsection and who, as of that day, was entitled to—

''(A) appeal a reduction in grade or removal to the Merit Systems Protection Board under chapter 43 of title 5, United States Code,

''(B) appeal an adverse action to the Merit Systems Protection Board under chapter 75 of title 5, United States Code,

''(C) appeal a prohibited personnel practice described under section 2302(b) of title 5, United States Code, to the Merit Systems Protection Board under chapter 77 of that title,

''(D) make an allegation of a prohibited personnel practice described under section 2302(b) of title 5, United States Code, with the Office of Special Counsel under chapter 12 of that title for action in accordance with that chapter, or

''(E) file an appeal with the Equal Employment Opportunity Commission under part 1614 of title 29 of the Code of Federal Regulations,

shall continue to be entitled to file such appeal or make such an allegation so long as the individual remains an employee of the Tax Court.

''(9) COMPETITIVE STATUS.—Notwithstanding any other provision of law, any employee of the Tax Court who has completed at least 1 year of continuous service under a non-temporary appointment with the Tax Court acquires a competitive status for appointment to any position in the competitive service for which the employee possesses the required qualifications.

''(10) MERIT SYSTEM PRINCIPLES, PROHIBITED PERSONNEL PRACTICES, AND PREFERENCE ELIGIBLES.—Any personnel management system of the Tax Court shall—

''(A) include the principles set forth in section 2301(b) of title 5, United States Code;

''(B) prohibit personnel practices prohibited under section 2302(b) of title 5, United States Code; and

''(C) in the case of any individual who would be a preference eligible in the executive branch, provide preference for that individual in a manner and to an extent consistent with preference accorded to preference eligibles in the executive branch.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date the United States Tax Court adopts a personnel management system after the date of the enactment of this Act.

The amendment (No. 4835) was agreed to, as follows:

Amend the title so as to read: ''An Act to amend the Internal Revenue Code of 1986 to authorize the tax court to appoint employees.''.

The amendments were ordered to be engrossed and the bill, as amended, to be read a third time.

The bill (H.R. 5901), as amended, was read the third time and passed.

NATIONAL WILDLIFE REFUGE VOLUNTEER IMPROVEMENT ACT OF 2010

Mr. KERRY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 693, H.R. 4973.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4973) to amend the Fish and Wildlife Act of 1956 to reauthorize volunteer programs and community partnerships for national wildlife refuges, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. KERRY. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 4973) was ordered to be read a third time, was read the third time, and passed.

FRANK MELVILLE SUPPORTIVE HOUSING INVESTMENT ACT OF 2009

Mr. KERRY. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 689, S. 1481.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1481) to amend section 811 of the Cranston-Gonzalez National Affordable Housing Act to improve the program under such section for supportive housing for persons with disabilities.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Banking, Housing and Urban Affairs, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italics.)

S. 1481

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the ''Frank Melville Supportive Housing Investment Act of **[**2009**]***2010*''.

(b) REFERENCES.—Except as otherwise expressly provided, wherever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, section 811 or any other provision of section 811, the reference shall be considered to be made to section 811 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013).

[SEC. 2. TENANT-BASED RENTAL ASSISTANCE THROUGH CERTIFICATE FUND.

[(a) TERMINATION OF MAINSTREAM TENANT-BASED RENTAL ASSISTANCE PROGRAM.—Section 811 is amended—

[(1) in subsection (b)—

[(A) by striking the subsection designation and all that follows through the end of subparagraph (B) of paragraph (2) and inserting the following:

[''(b) AUTHORITY TO PROVIDE ASSISTANCE.—The Secretary is authorized to provide assistance to private nonprofit organizations to expand the supply of supportive housing for persons with disabilities, which shall be provided as—

[''(1) capital advances in accordance with subsection (d)(1), and

[''(2) contracts for project rental assistance in accordance with subsection (d)(2).''; and

[(B) by striking ''assistance under this paragraph'' and inserting ''Assistance under this subsection'';

[(2) in subsection (d), by striking paragraph (4); and

[(3) in subsection (l), by striking paragraph (1).

[(b) RENEWAL THROUGH SECTION 8.—Section 811 is amended by adding at the end the following new subsection:

[''(p) AUTHORIZATION OF APPROPRIATIONS FOR SECTION 8 ASSISTANCE.—

[''(1) IN GENERAL.—There is authorized to be appropriated for tenant-based rental assistance under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) for persons with disabilities in fiscal year 2009 the amount necessary to provide a number of incremental vouchers under such section that is equal to the number of vouchers provided in fiscal year 2008 under the tenant-based rental assistance program under subsection (d)(4) of this section (as in effect before the date of the enactment of the Frank Melville Supportive Housing Investment Act of 2009).

[''(2) REQUIREMENTS UPON TURNOVER.—The Secretary shall develop and issue, to public housing agencies that receive voucher assistance made available under this subsection and to public housing agencies that received voucher assistance under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) for non-elderly disabled families pursuant to appropriation Acts for fiscal years 1997 through 2002 or any other subsequent appropriations for incremental vouchers for non-elderly disabled families, guidance to ensure that, to the maximum extent possible, such vouchers continue to be provided upon turnover to qualified persons with disabilities or to qualified non-elderly disabled families, respectively.''.**]**

SEC. 2. TENANT-BASED RENTAL ASSISTANCE.

(a) RENEWAL THROUGH SECTION 8.—Section 811(d)(4) is amended to read as follows:

''(4) TENANT-BASED RENTAL ASSISTANCE.—

''(A) IN GENERAL.—Tenant-based rental assistance provided under subsection (b)(1) shall be provided under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)).

''(B) CONVERSION OF EXISTING ASSISTANCE.—There is authorized to be appropriated for tenant-based rental assistance under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) for persons with disabilities an amount not less than the amount necessary to convert the number of authorized vouchers and funding under an annual contributions contract in effect on the date of enactment of the Frank Melville Supportive Housing Investment Act of 2010. Such converted vouchers may be administered by the entity administering the vouchers prior to conversion. For purposes of administering such converted vouchers, such entities shall be considered a 'public housing agency' authorized to engage in the operation of tenant-based assistance under section 8 of the United States Housing Act of 1937 .

''(C) REQUIREMENTS UPON TURNOVER.—The Secretary shall develop and issue, to public housing agencies that receive voucher assistance made available under this subsection and to public housing agencies that received voucher assistance under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) for non-elderly disabled families pursuant to appropriation Acts for fiscal years 1997 through 2002 or any other subsequent appropriations for incremental vouchers for non-elderly disabled families, guidance to ensure that, to the maximum extent possible, such vouchers continue to be provided upon turnover to qualified persons with disabilities or to qualified non-elderly disabled families, respectively.''.

(b) PROVISION OF TECHNICAL ASSISTANCE.—The Secretary is authorized to the extent amounts are made available in future appropriations Acts, to provide technical assistance to public housing agencies and other administering entities to facilitate using vouchers to provide permanent supportive housing for persons with disabilities, help States reduce reliance on segregated restrictive settings for people with disabilities to meet community care requirements, end chronic homelessness, as ''chronically homeless'' is defined in section 401 of the

McKinney-Vento Homeless Assistance Act (42 U.S.C. 11361), and for other related purposes.

SEC. 3. MODERNIZED CAPITAL ADVANCE PROGRAM.

(a) PROJECT RENTAL ASSISTANCE CONTRACTS.—Section 811 is amended—

(1) in subsection (d)(2)—

(A) by inserting ''(A) INITIAL PROJECT RENTAL ASSISTANCE CONTRACT.—'' after ''PROJECT RENTAL ASSISTANCE.—'';

(B) in the first sentence, by inserting after ''shall'' the following: ''comply with subsection (e)(2) and shall'';

(C) by striking ''annual contract amount'' each place such term appears and inserting ''amount provided under the contract for each year covered by the contract''; and

(D) by adding at the end the following new subparagraph:

''(B) RENEWAL OF AND INCREASES IN CONTRACT AMOUNTS.—

''(i) EXPIRATION OF CONTRACT TERM.—Upon the expiration of each contract term, subject to the availability of amounts made available in appropriation Acts, the Secretary shall adjust the annual contract amount to provide for reasonable project costs, [and any increases,] including adequate reserves and service coordinators *as appropriate*, except that any contract amounts not used by a project during a contract term shall not be available for such adjustments upon renewal.

''(ii) EMERGENCY SITUATIONS.—In the event of emergency situations that are outside the control of the owner, the Secretary shall increase the annual contract amount, subject to reasonable review and limitations as the Secretary shall provide.''.

(2) in subsection (e)(2)—

(A) in the first sentence, by inserting before the period at the end the following: '', except that, in the case of the sponsor of a project assisted with any low-income housing tax credit pursuant to section 42 of the Internal Revenue Code of 1986 or with any tax-exempt housing bonds, the contract shall have an initial term of not less than 360 months and shall provide funding for a term of 60 months''; and

(B) by striking ''extend any expiring contract'' and insert ''upon expiration of a contract (or any renewed contract), renew such contract''.

(b) PROGRAM REQUIREMENTS.—Section 811 is amended—

(1) in subsection (e)—

(A) by striking the subsection heading and inserting the following: ''PROGRAM REQUIREMENTS'';

(B) by striking paragraph (1) and inserting the following new paragraph:

''(1) USE RESTRICTIONS.—

''(A) TERM.—Any project for which a capital advance is provided under subsection (d)(1) shall be operated for not less than 40 years as supportive housing for persons with disabilities, in accordance with the application for the project approved by the Secretary and shall, during such period, be made available for occupancy only by very low-income persons with disabilities.

''(B) CONVERSION.—If the owner of a project requests the use of the project for the direct benefit of very low-income persons with disabilities and, pursuant to such request the Secretary determines that a project is no longer needed for use as supportive housing for persons with disabilities, the Secretary may approve the request and authorize the owner to convert the project to such use.''; and

(C) by adding at the end the following new paragraphs:

''(3) LIMITATION ON USE OF FUNDS.—No assistance received under this section (or any State or local government funds used to supplement such assistance) may be used to replace other State or local funds previously used, or designated for use, to assist persons with disabilities.

''(4) MULTIFAMILY PROJECTS.—

''(A) LIMITATION.—Except as provided in subparagraph (B), of the total number of dwelling units in any multifamily housing project (including any condominium or cooperative housing project) containing any unit for which assistance is provided from a capital grant under subsection (d)(1) made after the date of the enactment of the Frank Melville Supportive Housing Investment Act of [2009]*2010*, the aggregate number that are used for persons with disabilities, including supportive housing for persons with disabilities, or to which any occupancy preference for persons with disabilities applies, may not exceed 25 percent of such total.

''(B) EXCEPTION.—Subparagraph (A) shall not apply in the case of any project that is a group home or independent living facility.''; and

(2) in subsection (l), by striking paragraph (4).

(c) DELEGATED PROCESSING.—Subsection (g) of section 811 (42 U.S.C. 8013(g)) is amended—

(1) by striking ''SELECTION CRITERIA.—'' and inserting ''SELECTION CRITERIA AND PROCESSING.—(1) SELECTION CRITERIA.—'';

(2) by redesignating paragraphs (1), (2), (3), (4), (5), (6), and (7) as subparagraphs (A), (B), (C), (D), (E), (G), and (H), respectively; and

(3) by adding at the end the following new paragraph:

''(2) DELEGATED PROCESSING.—

''(A) In issuing a capital advance under subsection (d)(1) for any multifamily project (but not including any project that is a group home or independent living facility) for which financing for the purposes described in the last sentence of subsection (b) is provided by a combination of the capital advance and sources other than this section, within 30 days of award of the capital advance, the Secretary shall delegate review and processing of such projects to a State or local housing agency that—

''(i) is in geographic proximity to the property;

''(ii) has demonstrated experience in and capacity for underwriting multifamily housing loans that provide housing and supportive services;

''(iii) may or may not be providing low-income housing tax credits in combination with the capital advance under this section; and

''(iv) agrees to issue a firm commitment within 12 months of delegation.

''(B) The Secretary shall retain the authority to process capital advances in cases in which no State or local housing agency [has applied to]*is sufficiently qualified to* provide delegated processing pursuant to this paragraph or no such agency has entered into an agreement with the Secretary to serve as a delegated processing agency.

''(C) The Secretary shall—

''(i) develop criteria and a timeline to periodically assess the performance of State and local housing agencies in carrying out the duties delegated to such agencies pursuant to subparagraph (A); and

''(ii) retain the authority to review and process projects financed by a capital advance in the event that, after a review and assessment, a State or local housing agency is determined to have failed to satisfy the criteria established pursuant to clause (i).

''([C]*D*) An agency to which review and processing is delegated pursuant to subparagraph (A) may assess a reasonable fee which shall be included in the capital advance amounts and may recommend project rental assistance amounts in excess of those initially awarded by the Secretary. The Secretary shall develop a schedule for reasonable fees under this subparagraph to be paid to delegated processing agencies, which shall take into consideration any other fees to be paid to the agency for other funding provided to the project by the agency, including bonds, tax credits, and other gap funding.

''([D]*E*) Under such delegated system, the Secretary shall retain the authority to approve rents and development costs and to execute a capital advance within 60 days of receipt of the commitment from the State or local agency. The Secretary shall provide to such agency and the project sponsor, in writing, the reasons for any reduction in capital advance amounts or project rental assistance and such reductions shall be subject to appeal.''.

(d) LEVERAGING OTHER RESOURCES.—Paragraph (1) of section 811(g) (as so designated by subsection (c)(1) of this section) is amended by inserting after subparagraph (E) (as so redesignated by subsection (c)(2) of this section) the following new subparagraph:

''(F) the extent to which the per-unit cost of units to be assisted under this section will be supplemented with resources from other public and private sources;''.

(e) TENANT PROTECTIONS AND ELIGIBILITY FOR OCCUPANCY.—Section 811 is amended by striking subsection (i) and inserting the following new subsection:

''(i) ADMISSION AND OCCUPANCY.—

''(1) TENANT SELECTION.—

''(A) PROCEDURES.—An owner shall adopt written tenant selection procedures that are satisfactory to the Secretary as (i) consistent with the purpose of improving housing opportunities for very low-income persons with disabilities; and (ii) reasonably related to program eligibility and an applicant's ability to perform the obligations of the lease. Owners shall promptly notify in writing any rejected applicant of the grounds for any rejection.

''(B) REQUIREMENT FOR OCCUPANCY.—Occupancy in dwelling units provided assistance under this section shall be available only to persons with disabilities and households that include at least one person with a disability.

''(C) AVAILABILITY.—Except only as provided in subparagraph (D), occupancy in dwelling units in housing provided with assistance under this section shall be available to all persons with disabilities eligible for such occupancy without regard to the particular disability involved.

''(D) LIMITATION ON OCCUPANCY.—Notwithstanding any other provision of law, the owner of housing developed under this section may, with the approval of the Secretary, limit occupancy within the housing to persons with disabilities who can benefit from the supportive services offered in connection with the housing.

''(2) TENANT PROTECTIONS.—

''(A) LEASE.—The lease between a tenant and an owner of housing assisted under this section shall be for not less than one year, and shall contain such terms and conditions as the Secretary shall determine to be appropriate.

''(B) TERMINATION OF TENANCY.—An owner may not terminate the tenancy or refuse to renew the lease of a tenant of a rental dwelling unit assisted under this section except—

''(i) for serious or repeated violation of the terms and conditions of the lease, for violation of applicable Federal, State, or local law, or for other good cause; and

''(ii) by providing the tenant, not less than 30 days before such termination or refusal to renew, with written notice specifying the grounds for such action.

''(C) VOLUNTARY PARTICIPATION IN SERVICES.—A supportive service plan for housing assisted under this section shall permit each resident to take responsibility for choosing and acquiring their own services, to receive

any supportive services made available directly or indirectly by the owner of such housing, or to not receive any supportive services.''.

(f) DEVELOPMENT COST LIMITATIONS.—Subsection (h) of section 811 is amended—

(1) in paragraph (1)—

(A) by striking the paragraph heading and inserting ''GROUP HOMES'';

(B) in the first sentence, by striking ''various types and sizes'' and inserting ''group homes'';

(C) by striking subparagraph (E); and

(D) by redesignating subparagraphs (F) and (G) as subparagraphs (E) and (F), respectively;

(2) in paragraph (3), by inserting ''established pursuant to paragraph (1)'' after ''cost limitation''; and

(3) by adding at the end the following new paragraph:

''(6) APPLICABILITY OF HOME PROGRAM COST LIMITATIONS.—

''(A) IN GENERAL.—The provisions of section 212(e) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12742(e)) and the cost limits established by the Secretary pursuant to such section with respect to the amount of funds under subtitle A of title II of such Act that may be invested on a per unit basis, shall apply to supportive housing assisted with a capital advance under subsection (d)(1) and the amount of funds under such subsection that may be invested on a per unit basis.

''(B) WAIVERS.—The Secretary [shall]*may* provide for waiver of the cost limits applicable pursuant to subparagraph (A)—

''(i) in the cases in which the cost limits established pursuant to section 212(e) of the Cranston-Gonzalez National Affordable Housing Act may be waived; and

''(ii) to provide for—

''(I) the cost of special design features to make the housing accessible to persons with disabilities;

''(II) the cost of special design features necessary to make individual dwelling units meet the special needs of persons with disabilities; and

''(III) the cost of providing the housing in a location that is accessible to public transportation and community organizations that provide supportive services to persons with disabilities.''.

[(g) REPEAL OF AUTHORITY TO WAIVE SIZE LIMITATIONS.—Paragraph (1) of section 811(k) is amended—

[(1) in paragraph (1), by striking the second sentence; and

[(2) in paragraph (4), by striking ''(or such higher number of persons'' and all that follows through ''subsection (h)(6))''.]

(g) CONGRESSIONAL NOTIFICATION OF WAIVER.—Section 811(k)(1) is amended by adding the following after the second sentence: ''Not later than the date of the exercise of any waiver permitted under the previous sentence, the Secretary shall notify the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives of the waiver or the intention to exercise the waiver, together with a detailed explanation of the reason for the waiver.''.

(h) MINIMUM ALLOCATION FOR MULTIFAMILY PROJECTS.—[Subsection (l) of section 811, as amended by the preceding provisions of this Act, is further amended by inserting before paragraph (2) the following new paragraph:]*Paragraph (1) of section 811(l) is amended to read as follows*:

''(1) MINIMUM ALLOCATION FOR MULTIFAMILY PROJECTS.—The Secretary shall establish a minimum percentage of the amount made available for each fiscal year for capital advances under subsection (d)(1) that shall be used for multifamily projects subject to subsection (e)(4).''.

SEC. 4. PROJECT RENTAL ASSISTANCE COMPETITIVE DEMONSTRATION PROGRAM.

Section 811, as amended by the preceding provisions of this Act, is further amended—

(1) by redesignating subsections (k) through (n) as subsections (l) through (o), respectively; and

(2) by inserting after subsection (j) the following new subsection:

''(k) PROJECT RENTAL ASSISTANCE-ONLY COMPETITIVE DEMONSTRATION PROGRAM.—

''(1) AUTHORITY.—The Secretary shall carry out a demonstration program under this subsection to expand the supply of supportive housing for non-elderly adults with disabilities, under which the Secretary shall make funds available for project rental assistance pursuant to paragraph (2) for eligible projects under paragraph (3). The Secretary shall provide for State housing finance agencies and other appropriate entities to apply to the Secretary for such project rental assistance funds, which shall be made available by such agencies and entities for dwelling units in eligible projects based upon criteria established by the Secretary for the demonstration program under this subsection. The Secretary may not require any State housing finance agency or other entity applying for project rental assistance funds under the demonstration program to identify in such application the eligible projects for which such funds will be used, and shall allow such agencies and applicants to subsequently identify such eligible projects pursuant to the making of commitments described in paragraph (3)(B).

''(2) PROJECT RENTAL ASSISTANCE.—

''(A) CONTRACT TERMS.—Project rental assistance under the demonstration program under this subsection shall be provided—

''(i) in accordance with subsection (d)(2);

''(ii) under a contract having an initial term of not less than 180 months that provides funding for a term 60 months, which funding shall be renewed upon expiration, subject to the availability of sufficient amounts in appropriation Acts.

''(B) LIMITATION ON UNITS ASSISTED.—Of the total number of dwelling units in any multifamily housing project containing any unit for which project rental assistance under the demonstration program under this subsection is provided, the aggregate number that are provided such project rental assistance, that are used for supportive housing for persons with disabilities, or to which any occupancy preference for persons with disabilities applies, may not exceed 25 percent of such total.

''(C) PROHIBITION OF CAPITAL ADVANCES.—The Secretary may not provide a capital advance under subsection (d)(1) for any project for which assistance is provided under the demonstration program.

''(D) ELIGIBLE POPULATION.—Project rental assistance under the demonstration program under this subsection may be provided only for dwelling units for extremely low-income persons with disabilities and extremely low-income households that include at least one person with a disability.

''(3) ELIGIBLE PROJECTS.—An eligible project under this paragraph is a new or existing multifamily housing project for which—

''(A) the development costs are paid with resources from other public or private sources; and

''(B) a commitment has been made—

''(i) by the applicable State agency responsible for allocation of low-income housing tax credits under section 42 of the Internal Revenue Code of 1986, for an allocation of such credits;

''(ii) by the applicable participating jurisdiction that receives assistance under the HOME Investment Partnership Act, for assistance from such jurisdiction; or

''(iii) by any Federal agency or any State or local government, for funding for the project from funds from any other sources.

''(4) STATE AGENCY INVOLVEMENT.—Assistance under the demonstration may be provided only for projects for which the applicable State agency responsible for health and human services programs, and the applicable State agency designated to administer or supervise the administration of the State plan for medical assistance under title XIX of the Social Security Act, have entered into such agreements as the Secretary considers appropriate—

''(A) to identify the target populations to be served by the project;

''(B) to set forth methods for outreach and referral; and

''(C) to make available appropriate services for tenants of the project.

''(5) USE REQUIREMENTS.—In the case of any project for which project rental assistance is provided under the demonstration program under this subsection, the dwelling units assisted pursuant to paragraph (2) shall be operated for not less than 30 years as supportive housing for persons with disabilities, in accordance with the application for the project approved by the Secretary, and such dwelling units shall, during such period, be made available for occupancy only by persons and households described in paragraph (2)(D).

''*(6) DURATION OF DEMONSTRATION.—The Secretary may provide new project rental assistance contracts pursuant to the demonstration program established under this subsection for a period of not more than 5 years.*

''([6]*7*) REPORT.—Upon the expiration of the 5-year period [beginning on the date of the enactment of the Frank Melville Supportive Housing Investment Act of 2009]*set forth in paragraph (6)*, the Secretary shall submit to the Congress a report describing the demonstration program under this subsection, analyzing the effectiveness of the program, including the effectiveness of the program compared to the program for capital advances in accordance with subsection (d)(1) (as in effect pursuant to the amendments made by such Act), and making recommendations regarding future models for assistance under this section based upon the experiences under the program.''.

SEC. 5. TECHNICAL CORRECTIONS.

Section 811 is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking ''and'' at the end;

(B) in paragraph (2)—

(i) by striking ''provides'' and inserting ''makes available''; and

(ii) by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following new paragraph:

''(3) promotes and facilitates community integration for people with significant and long-term disabilities.'';

(2) in subsection (c)—

(A) in paragraph (1), by striking ''special'' and inserting ''housing and community-based services''; and

(B) in paragraph (2)—

(i) by striking subparagraph (A) and inserting the following:

''(A) make available voluntary supportive services that address the individual needs of persons with disabilities occupying such housing;''; and

(ii) in subparagraph (B), by striking the comma and inserting a semicolon;

(3) in subsection (d)(1), by striking ''provided under'' and all that follows through

''shall bear'' and inserting ''provided pursuant to subsection (b)(1) shall bear'';

(4) in subsection (f)—

(A) in paragraph (3)—

(i) in subparagraph (B), by striking ''receive'' and inserting ''be offered'';

(ii) by striking subparagraph (C) and inserting the following:

''(C) evidence of the applicant's experience in—

''(i) providing such supportive services; or

''(ii) creating and managing structured partnerships with service providers for the delivery of appropriate community-based services;'';

(iii) in subparagraph (D), by striking ''such persons'' and all that follows through ''provision of such services'' and inserting ''tenants''; and

(iv) in subparagraph (E), by inserting ''other Federal, and'' before ''State''; and

(B) in paragraph (4), by striking ''special'' and inserting ''housing and community-based services'';

(5) in subsection (g), in paragraph (1) (as so redesignated by section 3(c)(1) of this Act)—

(A) in subparagraph (D) (as so redesignated by section 3(c)(2) of this Act), by striking ''the necessary supportive services will be provided'' and inserting ''appropriate supportive services will be made available''; and

(B) by striking subparagraph (E) (as so redesignated by section 3(c)(2) of this Act) and inserting the following:

''(E) the extent to which the location and design of the proposed project will facilitate the provision of community-based supportive services and address other basic needs of persons with disabilities, including access to appropriate and accessible transportation, access to community services agencies, public facilities, and shopping;'';

(6) in subsection (j)—

(A) by striking paragraph (4); and

(B) by redesignating paragraphs (5), (6), and (7) as paragraphs (4), (5), and (6), respectively;

(7) in subsection (l) (as so redesignated by section 4(1) of this Act)—

(A) in paragraph (1), by inserting before the period at the end of the first sentence the following: '', which provides a separate bedroom for each tenant of the residence'';

(B) by striking paragraph (2) and inserting the following:

''(2)(A) The term 'person with disabilities' means a person who is 18 years of age or older and less than 62 years of age, who—

''(i) has a disability as defined in section 223 of the Social Security Act,

''(ii) is determined, pursuant to regulations issued by the Secretary, to have a physical, mental, or emotional impairment which—

''(I) is expected to be of long-continued and indefinite duration;

''(II) substantially impedes his or her ability to live independently; and

''(III) is of such a nature that such ability could be improved by more suitable housing conditions; or

''(iii) has a developmental disability as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000.

''(B) Such term shall not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome. Notwithstanding any other provision of law, no individual shall be considered a person with disabilities, for purposes of eligibility for low-income housing under this title, solely on the basis of any drug or alcohol dependence. The Secretary shall consult with other appropriate Federal agencies to implement the preceding sentence.

''(C) The Secretary shall prescribe such regulations as may be necessary to prevent abuses in determining, under the definitions contained in this paragraph, the eligibility of families and persons for admission to and occupancy of housing assisted under this section. Notwithstanding the preceding provisions of this paragraph, the term 'person with disabilities' includes two or more persons with disabilities living together, one or more such persons living with another person who is determined (under regulations prescribed by the Secretary) to be important to their care or well-being, and the surviving member or members of any household described in subparagraph (A) who were living, in a unit assisted under this section, with the deceased member of the household at the time of his or her death.'';

(C) by striking paragraph (3) and inserting the following new paragraph:

''(3) The term 'supportive housing for persons with disabilities' means dwelling units that—

''(A) are designed to meet the permanent housing needs of very low-income persons with disabilities; and

''(B) are located in housing that make available supportive services that address the individual health, mental health, or other needs of such persons.'';

(D) in paragraph (5), by striking ''a project for''; and

(E) in paragraph (6)—

(i) by inserting after and below subparagraph (D) the matter to be inserted by the amendment made by section 841 of the American Homeownership and Economic Opportunity Act of 2000 (Public Law 106–569; 114 Stat. 3022); and

(ii) in the matter inserted by the amendment made by subparagraph (A) of this paragraph, by striking ''wholly owned and''; and

(8) in subsection (m) (as so redesignated by section 4(1) of this Act)—

(A) in paragraph (2), by striking ''subsection (c)(1)'' and inserting ''subsection (d)(1)''; and

(B) in paragraph (3), by striking ''subsection (c)(2)'' and inserting ''subsection (d)(2)''.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

Subsection (n) of section 811 (as so redesignated by section 4(1) of this Act) is amended to read as follows:

''(n) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for each of fiscal years [2009 through 2012]*2011 through 2015* the following amounts:

''(1) CAPITAL ADVANCE/PRAC PROGRAM.—For providing assistance pursuant to subsection (b), such sums as may be necessary.

''(2) DEMONSTRATION PROGRAM.—For carrying out the demonstration program under subsection (k), such sums as may be necessary to provide 2,500 incremental dwelling units under such program in fiscal year [2009]*2011* and 5,000 incremental dwelling units under such program in each of fiscal years [2010, 2011, and 2012]*2012, 2013, 2014, and 2015*.''.

SEC. 7. NEW REGULATIONS AND PROGRAM GUIDANCE.

Not later than the expiration of the 180-day period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall issue new regulations and guidance for the program under section 811 of the Cranston-Gonzalez National Affordable Housing Act for supportive housing for persons with disabilities to carry out such program in accordance with the amendments made by this Act.

SEC. 8. GAO STUDY.

The Comptroller General of the United States shall conduct a study of the supportive housing for persons with disabilities program under section 811 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013) to determine the adequacy and effectiveness of such program in assisting households of persons with disabilities. Such study shall determine—

(1) the total number of households assisted under such program;

(2) the extent to which households assisted under other programs of the Department of Housing and Urban Development that provide rental assistance or rental housing would be eligible to receive assistance under such section 811 program; and

(3) the extent to which households described in paragraph (2) who are eligible for, but not receiving, assistance under such section 811 program are receiving supportive services from, or assisted by, the Department of Housing and Urban Development other than through the section 811 program (including under the Resident Opportunity and Self-Sufficiency program) or from other sources.

Upon the completion of the study required under this section, the Comptroller General shall submit a report to the Congress setting forth the findings and conclusions of the study.

Mr. KERRY. Mr. President, I ask unanimous consent the committee-reported amendments be considered, a Johanns amendment which is at the desk be agreed to, that the committee-reported amendments, as amended, be agreed to, the bill as amended be read a third time and passed, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 4836) was agreed to, as follows:

On page 19, line 9, strike ''811(k)(1) is amended by adding the following'' and insert the following: ''811(k) is amended—

''(1) in paragraph (1), by adding the following''

On page 19, line 16, strike the second period and insert the following: ''; and''.

On page 19, between lines 16 and 17, insert the following:

(2) in paragraph (4)—

(A) by striking ''prescribe, subject to the limitation under subsection (h)(6) of this section)'' and inserting ''prescribe)''; and

(B) by adding the following after the first sentence: ''Not later than the date that the Secretary prescribes a limit exceeding the 24 person limit in the previous sentence, the Secretary shall notify the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives of the limit or the intention to prescribe a limit in excess of 24 persons, together with a detailed explanation of the reason for the new limit.''.

On page 20, strike line 4 and all that follows through page 25, line 14, and insert the following:

SEC. 4. PROJECT RENTAL ASSISTANCE.

Section 811(b) is amended—

(1) in the matter preceding paragraph (1), by striking ''is authorized—'' and inserting ''is authorized to take the following actions:'';

(2) in paragraph (1)—

(A) by striking ''(1) to provide tenant-based'' and inserting ''(1) TENANT-BASED ASSISTANCE.—To provide tenant-based''; and

(B) by striking ''; and'' and inserting a period;

(3) in paragraph (2), by striking ''(2) to provide assistance'' and inserting ''(2) CAPITAL ADVANCES.—To provide assistance''; and

(4) by adding at the end the following:

''(3) PROJECT RENTAL ASSISTANCE.—

''(A) IN GENERAL.—To offer additional methods of financing supportive housing for non-elderly adults with disabilities, the Secretary shall make funds available for project rental assistance pursuant to subparagraph (B) for eligible projects under subparagraph (C). The Secretary shall provide for State housing finance agencies and other appropriate entities to apply to the Secretary for such project rental assistance funds, which shall be made available by such agencies and entities for dwelling units in eligible projects based upon criteria established by the Secretary. The Secretary may not require any State housing finance agency or other entity applying for such project rental assistance funds to identify in such application the eligible projects for which such funds will be used, and shall allow such agencies and applicants to subsequently identify such eligible projects pursuant to the making of commitments described in subparagraph (C)(ii).

''(B) CONTRACT TERMS.—

''(i) CONTRACT TERMS.—Project rental assistance under this paragraph shall be provided—

''(I) in accordance with subsection (d)(2); and

''(II) under a contract having an initial term of not less than 180 months that provides funding for a term 60 months, which funding shall be renewed upon expiration, subject to the availability of sufficient amounts in appropriation Acts.

''(ii) LIMITATION ON UNITS ASSISTED.—Of the total number of dwelling units in any multifamily housing project containing any unit for which project rental assistance under this paragraph is provided, the aggregate number that are provided such project rental assistance, that are used for supportive housing for persons with disabilities, or to which any occupancy preference for persons with disabilities applies, may not exceed 25 percent of such total.

''(iii) PROHIBITION OF CAPITAL ADVANCES.—The Secretary may not provide a capital advance under subsection (d)(1) for any project for which assistance is provided under this paragraph.

''(iv) ELIGIBLE POPULATION.—Project rental assistance under this paragraph may be provided only for dwelling units for extremely low-income persons with disabilities and extremely low-income households that include at least one person with a disability.

''(C) ELIGIBLE PROJECTS.—An eligible project under this subparagraph is a new or existing multifamily housing project for which—

''(i) the development costs are paid with resources from other public or private sources; and

''(ii) a commitment has been made—

''(I) by the applicable State agency responsible for allocation of low-income housing tax credits under section 42 of the Internal Revenue Code of 1986, for an allocation of such credits;

''(II) by the applicable participating jurisdiction that receives assistance under the HOME Investment Partnership Act, for assistance from such jurisdiction; or

''(III) by any Federal agency or any State or local government, for funding for the project from funds from any other sources.

''(D) STATE AGENCY INVOLVEMENT.—Assistance under this paragraph may be provided only for projects for which the applicable State agency responsible for health and human services programs, and the applicable State agency designated to administer or supervise the administration of the State plan for medical assistance under title XIX of the Social Security Act, have entered into such agreements as the Secretary considers appropriate—

''(i) to identify the target populations to be served by the project;

''(ii) to set forth methods for outreach and referral; and

''(iii) to make available appropriate services for tenants of the project.

''(E) USE REQUIREMENTS.—In the case of any project for which project rental assistance is provided under this paragraph, the dwelling units assisted pursuant to subparagraph (B) shall be operated for not less than 30 years as supportive housing for persons with disabilities, in accordance with the application for the project approved by the Secretary, and such dwelling units shall, during such period, be made available for occupancy only by persons and households described in subparagraph (B)(iv).

''(F) REPORT.—Not later than 3 years after the date of the enactment of this paragraph, and again 2 years thereafter, the Secretary shall submit to Congress a report—

''(i) describing the assistance provided under this paragraph;

''(ii) analyzing the effectiveness of such assistance, including the effectiveness of such assistance compared to the assistance program for capital advances set forth under subsection (d)(1) (as in effect pursuant to the amendments made by such Act); and

''(iii) making recommendations regarding future models for assistance under this section.''.

On page 28, line 20, strike ''(l)'' and all that follows through ''Act)'' on line 21, and insert ''(k)''.

On page 29, strike line 1, and all that follows through page 30, line 23, and inserting the following:

(B) in paragraph (2), by striking the first sentence, and inserting the following: ''The term 'person with disabilities' means a household composed of one or more persons who is 18 years of age or older and less than 62 years of age, and who has a disability.'';

On page 31, line 23, strike ''(m)'' and all that follows through ''Act)'' on line 24, and insert ''(l)''.

On page 32, strike lines 7 through 24, and insert the following:

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

Subsection (m) of section 811 is amended to read as follows:

''(m) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for providing assistance pursuant to this section $300,000,000 for each of fiscal years 2011 through 2015.''.

On page 33, strike lines 1 through 9.

On page 33, line 10, strike ''**SEC. 8.**'' and insert ''**SEC. 7.**''.

The committee amendments, as amended, were agreed to.

The bill (S. 1481), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1481

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the ''Frank Melville Supportive Housing Investment Act of 2010''.

(b) REFERENCES.—Except as otherwise expressly provided, wherever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, section 811 or any other provision of section 811, the reference shall be considered to be made to section 811 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013).

SEC. 2. TENANT-BASED RENTAL ASSISTANCE.

(a) RENEWAL THROUGH SECTION 8.—Section 811(d)(4) is amended to read as follows:

''(4) TENANT-BASED RENTAL ASSISTANCE.—

''(A) IN GENERAL.—Tenant-based rental assistance provided under subsection (b)(1) shall be provided under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)).

''(B) CONVERSION OF EXISTING ASSISTANCE.—There is authorized to be appropriated for tenant-based rental assistance under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) for persons with disabilities an amount not less than the amount necessary to convert the number of authorized vouchers and funding under an annual contributions contract in effect on the date of enactment of the Frank Melville Supportive Housing Investment Act of 2010. Such converted vouchers may be administered by the entity administering the vouchers prior to conversion. For purposes of administering such converted vouchers, such entities shall be considered a 'public housing agency' authorized to engage in the operation of tenant-based assistance under section 8 of the United States Housing Act of 1937.

''(C) REQUIREMENTS UPON TURNOVER.—The Secretary shall develop and issue, to public housing agencies that receive voucher assistance made available under this subsection and to public housing agencies that received voucher assistance under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) for non-elderly disabled families pursuant to appropriation Acts for fiscal years 1997 through 2002 or any other subsequent appropriations for incremental vouchers for non-elderly disabled families, guidance to ensure that, to the maximum extent possible, such vouchers continue to be provided upon turnover to qualified persons with disabilities or to qualified non-elderly disabled families, respectively.''.

(b) PROVISION OF TECHNICAL ASSISTANCE.—The Secretary is authorized to the extent amounts are made available in future appropriations Acts, to provide technical assistance to public housing agencies and other administering entities to facilitate using vouchers to provide permanent supportive housing for persons with disabilities, help States reduce reliance on segregated restrictive settings for people with disabilities to meet community care requirements, end chronic homelessness, as ''chronically homeless'' is defined in section 401 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11361), and for other related purposes.

SEC. 3. MODERNIZED CAPITAL ADVANCE PROGRAM.

(a) PROJECT RENTAL ASSISTANCE CONTRACTS.—Section 811 is amended—

(1) in subsection (d)(2)—

(A) by inserting ''(A) INITIAL PROJECT RENTAL ASSISTANCE CONTRACT.—'' after ''PROJECT RENTAL ASSISTANCE.—'';

(B) in the first sentence, by inserting after ''shall'' the following: ''comply with subsection (e)(2) and shall'';

(C) by striking ''annual contract amount'' each place such term appears and inserting ''amount provided under the contract for each year covered by the contract''; and

(D) by adding at the end the following new subparagraph:

''(B) RENEWAL OF AND INCREASES IN CONTRACT AMOUNTS.—

''(i) EXPIRATION OF CONTRACT TERM.—Upon the expiration of each contract term, subject to the availability of amounts made available in appropriation Acts, the Secretary shall adjust the annual contract amount to

provide for reasonable project costs, including adequate reserves and service coordinators as appropriate, except that any contract amounts not used by a project during a contract term shall not be available for such adjustments upon renewal.

''(ii) EMERGENCY SITUATIONS.—In the event of emergency situations that are outside the control of the owner, the Secretary shall increase the annual contract amount, subject to reasonable review and limitations as the Secretary shall provide.''.

(2) in subsection (e)(2)—

(A) in the first sentence, by inserting before the period at the end the following: '', except that, in the case of the sponsor of a project assisted with any low-income housing tax credit pursuant to section 42 of the Internal Revenue Code of 1986 or with any tax-exempt housing bonds, the contract shall have an initial term of not less than 360 months and shall provide funding for a term of 60 months''; and

(B) by striking ''extend any expiring contract'' and insert ''upon expiration of a contract (or any renewed contract), renew such contract''.

(b) PROGRAM REQUIREMENTS.—Section 811 is amended—

(1) in subsection (e)—

(A) by striking the subsection heading and inserting the following: ''PROGRAM REQUIREMENTS'';

(B) by striking paragraph (1) and inserting the following new paragraph:

''(1) USE RESTRICTIONS.—

''(A) TERM.—Any project for which a capital advance is provided under subsection (d)(1) shall be operated for not less than 40 years as supportive housing for persons with disabilities, in accordance with the application for the project approved by the Secretary and shall, during such period, be made available for occupancy only by very low-income persons with disabilities.

''(B) CONVERSION.—If the owner of a project requests the use of the project for the direct benefit of very low-income persons with disabilities and, pursuant to such request the Secretary determines that a project is no longer needed for use as supportive housing for persons with disabilities, the Secretary may approve the request and authorize the owner to convert the project to such use.''; and

(C) by adding at the end the following new paragraphs:

''(3) LIMITATION ON USE OF FUNDS.—No assistance received under this section (or any State or local government funds used to supplement such assistance) may be used to replace other State or local funds previously used, or designated for use, to assist persons with disabilities.

''(4) MULTIFAMILY PROJECTS.—

''(A) LIMITATION.—Except as provided in subparagraph (B), of the total number of dwelling units in any multifamily housing project (including any condominium or cooperative housing project) containing any unit for which assistance is provided from a capital grant under subsection (d)(1) made after the date of the enactment of the Frank Melville Supportive Housing Investment Act of 2010, the aggregate number that are used for persons with disabilities, including supportive housing for persons with disabilities, or to which any occupancy preference for persons with disabilities applies, may not exceed 25 percent of such total.

''(B) EXCEPTION.—Subparagraph (A) shall not apply in the case of any project that is a group home or independent living facility.''; and

(2) in subsection (l), by striking paragraph (4).

(c) DELEGATED PROCESSING.—Subsection (g) of section 811 (42 U.S.C. 8013(g)) is amended—

(1) by striking ''SELECTION CRITERIA.—'' and inserting ''SELECTION CRITERIA AND PROCESSING.—(1) SELECTION CRITERIA.—'';

(2) by redesignating paragraphs (1), (2), (3), (4), (5), (6), and (7) as subparagraphs (A), (B), (C), (D), (E), (G), and (H), respectively; and

(3) by adding at the end the following new paragraph:

''(2) DELEGATED PROCESSING.—

''(A) In issuing a capital advance under subsection (d)(1) for any multifamily project (but not including any project that is a group home or independent living facility) for which financing for the purposes described in the last sentence of subsection (b) is provided by a combination of the capital advance and sources other than this section, within 30 days of award of the capital advance, the Secretary shall delegate review and processing of such projects to a State or local housing agency that—

''(i) is in geographic proximity to the property;

''(ii) has demonstrated experience in and capacity for underwriting multifamily housing loans that provide housing and supportive services;

''(iii) may or may not be providing low-income housing tax credits in combination with the capital advance under this section; and

''(iv) agrees to issue a firm commitment within 12 months of delegation.

''(B) The Secretary shall retain the authority to process capital advances in cases in which no State or local housing agency is sufficiently qualified to provide delegated processing pursuant to this paragraph or no such agency has entered into an agreement with the Secretary to serve as a delegated processing agency.

''(C) The Secretary shall—

''(i) develop criteria and a timeline to periodically assess the performance of State and local housing agencies in carrying out the duties delegated to such agencies pursuant to subparagraph (A); and

''(ii) retain the authority to review and process projects financed by a capital advance in the event that, after a review and assessment, a State or local housing agency is determined to have failed to satisfy the criteria established pursuant to clause (i).

''(D) An agency to which review and processing is delegated pursuant to subparagraph (A) may assess a reasonable fee which shall be included in the capital advance amounts and may recommend project rental assistance amounts in excess of those initially awarded by the Secretary. The Secretary shall develop a schedule for reasonable fees under this subparagraph to be paid to delegated processing agencies, which shall take into consideration any other fees to be paid to the agency for other funding provided to the project by the agency, including bonds, tax credits, and other gap funding.

''(E) Under such delegated system, the Secretary shall retain the authority to approve rents and development costs and to execute a capital advance within 60 days of receipt of the commitment from the State or local agency. The Secretary shall provide to such agency and the project sponsor, in writing, the reasons for any reduction in capital advance amounts or project rental assistance and such reductions shall be subject to appeal.''.

(d) LEVERAGING OTHER RESOURCES.—Paragraph (1) of section 811(g) (as so designated by subsection (c)(1) of this section) is amended by inserting after subparagraph (E) (as so redesignated by subsection (c)(2) of this section) the following new subparagraph:

''(F) the extent to which the per-unit cost of units to be assisted under this section will be supplemented with resources from other public and private sources;''.

(e) TENANT PROTECTIONS AND ELIGIBILITY FOR OCCUPANCY.—Section 811 is amended by striking subsection (i) and inserting the following new subsection:

''(i) ADMISSION AND OCCUPANCY.—

''(1) TENANT SELECTION.—

''(A) PROCEDURES.—An owner shall adopt written tenant selection procedures that are satisfactory to the Secretary as (i) consistent with the purpose of improving housing opportunities for very low-income persons with disabilities; and (ii) reasonably related to program eligibility and an applicant's ability to perform the obligations of the lease. Owners shall promptly notify in writing any rejected applicant of the grounds for any rejection.

''(B) REQUIREMENT FOR OCCUPANCY.—Occupancy in dwelling units provided assistance under this section shall be available only to persons with disabilities and households that include at least one person with a disability.

''(C) AVAILABILITY.—Except only as provided in subparagraph (D), occupancy in dwelling units in housing provided with assistance under this section shall be available to all persons with disabilities eligible for such occupancy without regard to the particular disability involved.

''(D) LIMITATION ON OCCUPANCY.—Notwithstanding any other provision of law, the owner of housing developed under this section may, with the approval of the Secretary, limit occupancy within the housing to persons with disabilities who can benefit from the supportive services offered in connection with the housing.

''(2) TENANT PROTECTIONS.—

''(A) LEASE.—The lease between a tenant and an owner of housing assisted under this section shall be for not less than one year, and shall contain such terms and conditions as the Secretary shall determine to be appropriate.

''(B) TERMINATION OF TENANCY.—An owner may not terminate the tenancy or refuse to renew the lease of a tenant of a rental dwelling unit assisted under this section except—

''(i) for serious or repeated violation of the terms and conditions of the lease, for violation of applicable Federal, State, or local law, or for other good cause; and

''(ii) by providing the tenant, not less than 30 days before such termination or refusal to renew, with written notice specifying the grounds for such action.

''(C) VOLUNTARY PARTICIPATION IN SERVICES.—A supportive service plan for housing assisted under this section shall permit each resident to take responsibility for choosing and acquiring their own services, to receive any supportive services made available directly or indirectly by the owner of such housing, or to not receive any supportive services.''.

(f) DEVELOPMENT COST LIMITATIONS.—Subsection (h) of section 811 is amended—

(1) in paragraph (1)—

(A) by striking the paragraph heading and inserting ''GROUP HOMES'';

(B) in the first sentence, by striking ''various types and sizes'' and inserting ''group homes'';

(C) by striking subparagraph (E); and

(D) by redesignating subparagraphs (F) and (G) as subparagraphs (E) and (F), respectively;

(2) in paragraph (3), by inserting ''established pursuant to paragraph (1)'' after ''cost limitation''; and

(3) by adding at the end the following new paragraph:

''(6) APPLICABILITY OF HOME PROGRAM COST LIMITATIONS.—

''(A) IN GENERAL.—The provisions of section 212(e) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12742(e))

and the cost limits established by the Secretary pursuant to such section with respect to the amount of funds under subtitle A of title II of such Act that may be invested on a per unit basis, shall apply to supportive housing assisted with a capital advance under subsection (d)(1) and the amount of funds under such subsection that may be invested on a per unit basis.

''(B) WAIVERS.—The Secretary may provide for waiver of the cost limits applicable pursuant to subparagraph (A)—

''(i) in the cases in which the cost limits established pursuant to section 212(e) of the Cranston-Gonzalez National Affordable Housing Act may be waived; and

''(ii) to provide for—

''(I) the cost of special design features to make the housing accessible to persons with disabilities;

''(II) the cost of special design features necessary to make individual dwelling units meet the special needs of persons with disabilities; and

''(III) the cost of providing the housing in a location that is accessible to public transportation and community organizations that provide supportive services to persons with disabilities.''.

(g) CONGRESSIONAL NOTIFICATION OF WAIVER.—Section 811(k) is amended—

(1) in paragraph (1), by adding the following after the second sentence: ''Not later than the date of the exercise of any waiver permitted under the previous sentence, the Secretary shall notify the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives of the waiver or the intention to exercise the waiver, together with a detailed explanation of the reason for the waiver.''; and

(2) in paragraph (4)—

(A) by striking ''prescribe, subject to the limitation under subsection (h)(6) of this section)'' and inserting ''prescribe)''; and

(B) by adding the following after the first sentence: ''Not later than the date that the Secretary prescribes a limit exceeding the 24 person limit in the previous sentence, the Secretary shall notify the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives of the limit or the intention to prescribe a limit in excess of 24 persons, together with a detailed explanation of the reason for the new limit.''.

(h) MINIMUM ALLOCATION FOR MULTIFAMILY PROJECTS.—Paragraph (1) of section 811(l) is amended to read as follows:

''(1) MINIMUM ALLOCATION FOR MULTIFAMILY PROJECTS.—The Secretary shall establish a minimum percentage of the amount made available for each fiscal year for capital advances under subsection (d)(1) that shall be used for multifamily projects subject to subsection (e)(4).''.

SEC. 4. PROJECT RENTAL ASSISTANCE.

Section 811(b) is amended—

(1) in the matter preceding paragraph (1), by striking ''is authorized—'' and inserting ''is authorized to take the following actions:'';

(2) in paragraph (1)—

(A) by striking ''(1) to provide tenant-based'' and inserting ''(1) TENANT-BASED ASSISTANCE.—To provide tenant-based''; and

(B) by striking ''; and'' and inserting a period;

(3) in paragraph (2), by striking ''(2) to provide assistance'' and inserting ''(2) CAPITAL ADVANCES.—To provide assistance''; and

(4) by adding at the end the following:

''(3) PROJECT RENTAL ASSISTANCE.—

''(A) IN GENERAL.—To offer additional methods of financing supportive housing for non-elderly adults with disabilities, the Secretary shall make funds available for project rental assistance pursuant to subparagraph (B) for eligible projects under subparagraph (C). The Secretary shall provide for State housing finance agencies and other appropriate entities to apply to the Secretary for such project rental assistance funds, which shall be made available by such agencies and entities for dwelling units in eligible projects based upon criteria established by the Secretary. The Secretary may not require any State housing finance agency or other entity applying for such project rental assistance funds to identify in such application the eligible projects for which such funds will be used, and shall allow such agencies and applicants to subsequently identify such eligible projects pursuant to the making of commitments described in subparagraph (C)(ii).

''(B) CONTRACT TERMS.—

''(i) CONTRACT TERMS.—Project rental assistance under this paragraph shall be provided—

''(I) in accordance with subsection (d)(2); and

''(II) under a contract having an initial term of not less than 180 months that provides funding for a term 60 months, which funding shall be renewed upon expiration, subject to the availability of sufficient amounts in appropriation Acts.

''(ii) LIMITATION ON UNITS ASSISTED.—Of the total number of dwelling units in any multifamily housing project containing any unit for which project rental assistance under this paragraph is provided, the aggregate number that are provided such project rental assistance, that are used for supportive housing for persons with disabilities, or to which any occupancy preference for persons with disabilities applies, may not exceed 25 percent of such total.

''(iii) PROHIBITION OF CAPITAL ADVANCES.—The Secretary may not provide a capital advance under subsection (d)(1) for any project for which assistance is provided under this paragraph.

''(iv) ELIGIBLE POPULATION.—Project rental assistance under this paragraph may be provided only for dwelling units for extremely low-income persons with disabilities and extremely low-income households that include at least one person with a disability.

''(C) ELIGIBLE PROJECTS.—An eligible project under this subparagraph is a new or existing multifamily housing project for which—

''(i) the development costs are paid with resources from other public or private sources; and

''(ii) a commitment has been made—

''(I) by the applicable State agency responsible for allocation of low-income housing tax credits under section 42 of the Internal Revenue Code of 1986, for an allocation of such credits;

''(II) by the applicable participating jurisdiction that receives assistance under the HOME Investment Partnership Act, for assistance from such jurisdiction; or

''(III) by any Federal agency or any State or local government, for funding for the project from funds from any other sources.

''(D) STATE AGENCY INVOLVEMENT.—Assistance under this paragraph may be provided only for projects for which the applicable State agency responsible for health and human services programs, and the applicable State agency designated to administer or supervise the administration of the State plan for medical assistance under title XIX of the Social Security Act, have entered into such agreements as the Secretary considers appropriate—

''(i) to identify the target populations to be served by the project;

''(ii) to set forth methods for outreach and referral; and

''(iii) to make available appropriate services for tenants of the project.

''(E) USE REQUIREMENTS.—In the case of any project for which project rental assistance is provided under this paragraph, the dwelling units assisted pursuant to subparagraph (B) shall be operated for not less than 30 years as supportive housing for persons with disabilities, in accordance with the application for the project approved by the Secretary, and such dwelling units shall, during such period, be made available for occupancy only by persons and households described in subparagraph (B)(iv).

''(F) REPORT.—Not later than 3 years after the date of the enactment of this paragraph, and again 2 years thereafter, the Secretary shall submit to Congress a report—

''(i) describing the assistance provided under this paragraph;

''(ii) analyzing the effectiveness of such assistance, including the effectiveness of such assistance compared to the assistance program for capital advances set forth under subsection (d)(1) (as in effect pursuant to the amendments made by such Act); and

''(iii) making recommendations regarding future models for assistance under this section.''.

SEC. 5. TECHNICAL CORRECTIONS.

Section 811 is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking ''and'' at the end;

(B) in paragraph (2)—

(i) by striking ''provides'' and inserting ''makes available''; and

(ii) by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following new paragraph:

''(3) promotes and facilitates community integration for people with significant and long-term disabilities.'';

(2) in subsection (c)—

(A) in paragraph (1), by striking ''special'' and inserting ''housing and community-based services''; and

(B) in paragraph (2)—

(i) by striking subparagraph (A) and inserting the following:

''(A) make available voluntary supportive services that address the individual needs of persons with disabilities occupying such housing;''; and

(ii) in subparagraph (B), by striking the comma and inserting a semicolon;

(3) in subsection (d)(1), by striking ''provided under'' and all that follows through ''shall bear'' and inserting ''provided pursuant to subsection (b)(1) shall bear'';

(4) in subsection (f)—

(A) in paragraph (3)—

(i) in subparagraph (B), by striking ''receive'' and inserting ''be offered'';

(ii) by striking subparagraph (C) and inserting the following:

''(C) evidence of the applicant's experience in—

''(i) providing such supportive services; or

''(ii) creating and managing structured partnerships with service providers for the delivery of appropriate community-based services;'';

(iii) in subparagraph (D), by striking ''such persons'' and all that follows through ''provision of such services'' and inserting ''tenants''; and

(iv) in subparagraph (E), by inserting ''other Federal, and'' before ''State''; and

(B) in paragraph (4), by striking ''special'' and inserting ''housing and community-based services'';

(5) in subsection (g), in paragraph (1) (as so redesignated by section 3(c)(1) of this Act)—

(A) in subparagraph (D) (as so redesignated by section 3(c)(2) of this Act), by striking ''the necessary supportive services will be provided'' and inserting ''appropriate supportive services will be made available''; and

(B) by striking subparagraph (E) (as so redesignated by section 3(c)(2) of this Act) and inserting the following:

''(E) the extent to which the location and design of the proposed project will facilitate the provision of community-based supportive services and address other basic needs of persons with disabilities, including access to appropriate and accessible transportation, access to community services agencies, public facilities, and shopping;'';

(6) in subsection (j)—

(A) by striking paragraph (4); and

(B) by redesignating paragraphs (5), (6), and (7) as paragraphs (4), (5), and (6), respectively;

(7) in subsection (k)—

(A) in paragraph (1), by inserting before the period at the end of the first sentence the following: '', which provides a separate bedroom for each tenant of the residence'';

(B) in paragraph (2), by striking the first sentence, and inserting the following: ''The term 'person with disabilities' means a household composed of one or more persons who is 18 years of age or older and less than 62 years of age, and who has a disability.'';

(C) by striking paragraph (3) and inserting the following new paragraph:

''(3) The term 'supportive housing for persons with disabilities' means dwelling units that—

''(A) are designed to meet the permanent housing needs of very low-income persons with disabilities; and

''(B) are located in housing that make available supportive services that address the individual health, mental health, or other needs of such persons.'';

(D) in paragraph (5), by striking ''a project for''; and

(E) in paragraph (6)—

(i) by inserting after and below subparagraph (D) the matter to be inserted by the amendment made by section 841 of the American Homeownership and Economic Opportunity Act of 2000 (Public Law 106–569; 114 Stat. 3022); and

(ii) in the matter inserted by the amendment made by subparagraph (A) of this paragraph, by striking ''wholly owned and''; and

(8) in subsection (l)—

(A) in paragraph (2), by striking ''subsection (c)(1)'' and inserting ''subsection (d)(1)''; and

(B) in paragraph (3), by striking ''subsection (c)(2)'' and inserting ''subsection (d)(2)''.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

Subsection (m) of section 811 is amended to read as follows:

''(m) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for providing assistance pursuant to this section $300,000,000 for each of fiscal years 2011 through 2015.''.

SEC. 7. GAO STUDY.

The Comptroller General of the United States shall conduct a study of the supportive housing for persons with disabilities program under section 811 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013) to determine the adequacy and effectiveness of such program in assisting households of persons with disabilities. Such study shall determine—

(1) the total number of households assisted under such program;

(2) the extent to which households assisted under other programs of the Department of Housing and Urban Development that provide rental assistance or rental housing would be eligible to receive assistance under such section 811 program; and

(3) the extent to which households described in paragraph (2) who are eligible for, but not receiving, assistance under such section 811 program are receiving supportive services from, or assisted by, the Department of Housing and Urban Development other than through the section 811 program (including under the Resident Opportunity and Self-Sufficiency program) or from other sources.

Upon the completion of the study required under this section, the Comptroller General shall submit a report to the Congress setting forth the findings and conclusions of the study.

The PRESIDING OFFICER. The Senator from New Mexico.

AMERICA COMPETES REAUTHORIZATION ACT OF 2010

Mr. BINGAMAN. Mr. President, as if in legislative session and morning business, I ask unanimous consent that the Commerce Committee be discharged from further consideration of H.R. 5116 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5116) to invest in innovation through research and development, to improve the competitiveness of the United States, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. BROWN of Massachusetts. Mr. President, I rise today in strong support of the reauthorization of the America COMPETES Act, which passed the Senate today. I have heard from a broad coalition of universities, businesses, and educators in my home state of Massachusetts about the positive impact of the COMPETES Act on our economy. I have listened closely to my constituents' concerns and have concluded that reauthorization of this legislation is absolutely necessary to the long-term economic health of Massachusetts and the United States as a whole. To continue to lead in the 21st century, we must make sure that the United States has the most competitive economy and education system in the world. The COMPETES Act goes a long way to achieving that end, and I am proud to be a cosponsor of today's legislation.

This bill reauthorizes Federal funding to support science, technology, engineering, and mathematics research. The original COMPETES bill was enacted with strong bipartisan support in 2007 and was based upon the recommendations contained in the National Academies' report, ''Rising Above the Gathering Storm.'' That report correctly stated that:

Having reviewed trends in the United States and abroad, the [National Academies] is deeply concerned that the scientific and technological building blocks critical to our economic leadership are eroding at a time when many other nations are gathering strength. We strongly believe that a worldwide strengthening will benefit the world's economy—particularly in the creation of jobs in countries that are far less well-off than the United States. But we are worried about the future prosperity of the United States. Although many people assume that the United States will always be a world leader in science and technology, this may not continue to be the case inasmuch as great minds and ideas exist throughout the world. We fear the abruptness with which a lead in science and technology can be lost—and the difficulty of recovering a lead once lost, if indeed it can be regained at all.

The fears of the authors of ''Rising Above the Gathering Storm'' are as relevant today as they were prior to the original authorization of COMPETES. We must keep our foot on the gas pedal if we want to win the global race for jobs, economic growth, and new opportunities for our children and grandchildren.

Massachusetts is an innovation-driven economy and has significantly benefitted from the COMPETES Act. A 2009 independent study by the Massachusetts Institute of Technology, MIT, found that Massachusetts is home to nearly 7,000 companies founded by MIT alumni. These types of companies exist in part because of the federal research funding that the COMPETES Act provides to universities like MIT. According to the study, those 7,000 businesses have created nearly one million jobs in my State, generating $164 billion in worldwide sales, 26 percent of the total sales dollars of all Massachusetts companies. I know that many of my Senate colleagues hail from States with similar success stories.

Many of the jobs that stem from the COMPETES Act funding are in export-intensive sectors, such as my State's world-class semiconductor industry. I agree with President Obama that we must double U.S. exports in 5 years. But we can only achieve this worthwhile goal if we encourage students and leading thinkers to make our industries cutting edge so that the worldwide demand for our products grows significantly. Only then will we have sustained economic growth and get our country moving again.

Since arriving in the Senate I have carefully scrutinized every bill with our Nation's fiscal concerns in mind. The compromise struck in this reauthorization recognizes the fiscal climate of today while still making meaningful investments in our future. For example, the bill sunsets nine programs, eliminates several other duplicative programs, and includes an authorization level that is only half of the House's proposal.

I urge my colleagues in the House of Representatives to join in supporting passage of the America COMPETES Act.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Rockefeller-Hutchison substitute amendment, which is at the desk, be agreed to, the bill, as amended, be read a third time, and that a budget pay-go statement be read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 4843) was agreed to.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The pay-go statement will be read.

The assistant legislative clerk read as follows:

Mr. Conrad: This is the Statement of Budgetary Effects of PAYGO Legislation for H.R. 5116, as amended.

Total Budgetary Effects of H.R. 5116 for the 5-year statutory PAYGO Scorecard: $0.

Total Budgetary Effects of H.R. 5116 for the 10-year statutory PAYGO Scorecard: $0.

Also submitted for the RECORD as part of this statement is a table prepared by the Congressional Budget Office, which provides additional information on the budgetary effects of this Act, as follows:

CBO ESTIMATE OF THE STATUTORY PAY-AS-YOU-GO EFFECTS FOR H.R. 5116, THE AMERICA COMPETES REAUTHORIZATION ACT OF 2010 (S:\ WPSHR\LEGCNSL\XYWRITE\-SCI10\3605ASAM.9), TRANSMITTED TO CBO ON DECEMBER 17, 2010 BY THE SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

	By fiscal year in millions of dollars—											
	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2011–2015	2011–2020
Net Increase or Decrease (−) in the Deficit												
Statutory Pay-As-You-Go Impact	0	0	0	0	0	0	0	0	0	0	0	0

Note: H.R. 5116 would authorize appropriations for several agencies to support scientific research, industrial innovation, and certain educational activities. The legislation would allow for the collection of fees to offset the administrative costs of a loan guarantee program directed toward small- and medium-sized businesses. CBO estimates that there is no net budgetary impact in a single year.
Source: Congressional Budget Office and Joint Committee on Taxation.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the bill be passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 5116), as amended, was passed.

EXECUTIVE SESSION

TREATY WITH RUSSIA ON MEASURES FOR FURTHER REDUCTION AND LIMITATION OF STRATEGIC OFFENSIVE ARMS—Continued

Mr. KERRY. Mr. President, it is my understanding we now are in executive session on the START treaty?

The PRESIDING OFFICER. The Senator is correct.

Mr. KERRY. Mr. President, we are still open for business and await amendments.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. I ask unanimous consent that I be permitted to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, Last evening the Senate made a regrettable decision to defer action on completing its work on the fiscal year 2011 Appropriations bills. I shouldn't have to remind anyone that we are in mid-December, 1 week before Christmas, nearly 3 months into the fiscal year.

Yet because our Republican colleagues have decided that they cannot support a bill that they helped craft, we now face placing the Federal Government on autopilot for another 2 months under a continuing resolution—a CR.

My colleagues should all understand the consequences of this decision. First, a CR does virtually nothing to accommodate the priorities of the Congress and it abdicates responsibility for providing much needed oversight of the requests of the executive branch.

Each year, the Senate Appropriations subcommittees conduct hundreds of hearings to review the budgets of our government agencies. Our committee members and staffs conduct thousands of meetings with officials from the executive branch, our States and municipalities, leaders and workers from American companies, and the general public.

The committee relies heavily on the work of the Government Accountability Office, the Congressional Budget Office and outside experts to determine spending needs. Tens of thousands of questions are forwarded each year to officials in the executive branch asking them to justify the funding requested for each respective agency.

It is painstaking, detailed work. It requires great knowledge of each of our Federal agencies, a desire to dig into the nitty gritty details of agency budgets and question the programs and functions they manage.

This annual review is conducted in a bi-partisan fashion with Democratic and Republican Members and staff working in close cooperation to determine how our taxpayer funds should best be allocated.

These meetings, reviews, questions, and deliberations together led to the formulation of 12 individual Appropriations bills. Each bill is drafted by the subcommittee chairman and ranking Member in concert, marked up by it subcommittee, and then reviewed, debated, and amended by the full committee.

A year's worth of work came down to a choice. Would the Senate acquiesce in providing a bare bones approach to governing or would it insist upon allocating funding by agency and by program with thousands of adjustments that are the result of the good work of the House and Senate Appropriations committees?

To me, the answer was obvious. Nothing good comes from a CR. The Congress owes it to the American people to demand that programs funded by their hard-earned money will be for the best purposes we can recommend based on the countless hours of work of our committees and their staff.

Some will point out that a continuing resolution will result in fewer dollars being spent. That is technically correct. A CR will include less spending than was included in the omnibus, but like the old saying goes—you get what you pay for.

The savings in the continuing resolution come primarily by shortchanging national defense and security. Under the CR, the total allocated to the Defense subcommittee for discretionary spending is $508 billion. Under the omnibus bill the total is $520.6 billion. So, more than half of the so-called savings is really additional cuts to the Defense Department.

For Homeland Security the CR would cut nearly $800 million from the omnibus measure.

In fact, if we look at the funding for all security programs in the bill, more than $15 billion in cuts come from this sector.

Surely we could have all agreed that we shouldn't be determining our national defense and security funding on the fact that Congress was unable to finish its work.

Who among us really believes we should base our recommendations for defense, homeland security, and veterans on whatever level was needed last year? This is no way to run a government. The United States of America is not a second-rate nation, and we should not govern ourselves as if she is second rate.

The continuing resolution by design mandates that programs are to be held at the amounts provided last year, regardless of merit or need. Moreover, in the vacuum this creates, it is left to the bureaucrats to determine how taxpayer funds are allocated, not elected representatives. At this juncture, may I suggest that I believe we who represent our States know more about our States than these bureaucrats. I do not believe the people of Hawaii elected me to serve in the Senate as a rubberstamp.

The alternative I offered was a product of bipartisan cooperation in the Senate. It represented a good-faith effort to fund many of the priorities of the administration, while ensuring that it is the Congress that determines how the people's money will be spent.

While the omnibus bill we drafted provided more funding than the CR, it is by no means the amount sought by the administration. Earlier this year, more than half of this body voted to limit discretionary spending to the so-

called Sessions-McCaskill level, which in total is $29 billion below the cost of the budget requested by the Obama administration. The Appropriations Committee responded to the will of the majority of the Senate and adopted this ceiling on spending. Moreover, we did not use any gimmicks or tricks to hit this target. Instead, each of our subcommittees was directed to take another look at the funds they were recommending and provide additional cuts. Each was tasked to identify unneeded prior-year funds and to use those to achieve this reduced level. And it was not easy, sir. Many worthwhile programs were cut, but we reduced the bills reported from the committee by $15 billion—enough to reach the Sessions-McCaskill level while still fully funding and paying for Pell grants and covering all CBO scoring changes. The administration's top priorities have received funding but not always at the level sought. Congressional priorities were cut back. Essential needs were met, but there were no frills.

For many Members, this debate focused on what we call earmarks. Here, too, the Congress tightened its belt. As defined by Senate rules, we reduced our spending that was provided in fiscal year 2010 by nearly 35 percent. Less than $8 billion was recommended in the omnibus bill for congressionally directed spending programs as compared to more than $12 billion last year. My colleagues should be advised that since 2006, the Congress has reduced spending on earmarks by just about 75 percent. In total, the omnibus bill recommended less than three-quarters of 1 percent of discretionary funding on the so-called earmarks. A tiny fraction of funds are provided so all of you can support the needs of your constituents which are not funded by the administration.

We have all heard those who say this election was about earmarks. Nothing could be further from the truth. This election was not about earmarks. My colleagues who went home and reminded the voters what they had done for them—yes, with earmarks—are returning to the Senate. If this election was about public distaste for earmarks, why did I receive a higher percentage of votes than any other Member of this body who had an opponent? Why is it that virtually all of my colleagues who took credit for earmarks will be coming back next year?

This election was about gridlock and partisan gamesmanship. And what we saw in the past 24 hours is more of the same—endless delaying tactics, followed by decisionmaking by partisan point-scoring rather than what is good for our Nation.

Some of our colleagues have suggested that since this bill is 2,000 pages long, it is obviously too big. But as we all know, this is not 1 bill; it is 12 bills, funding all government agencies. Of course it is 2,000 pages long. It is simply not rational to object to a bill because of its length. And that is nonsense.

Too often, our debates in the Senate focus on mind-numbing budget totals that are hard to grapple with. But when the CR is $15 billion to $20 billion below the omnibus, it is not just a number; it is specific programs that will be cut or eliminated. When we point out that congressional priorities were curtailed, these are real programs that impact the lives of millions of Americans. When we are talking about a bill as large as the omnibus, we are talking about thousands of such programs.

For example, in the Defense Subcommittee, we prioritized the purchase of more helicopters to move about the rough terrain in Afghanistan. Keep in mind that there are thousands of men and women—American men and women—in uniform, putting themselves in harm's way, sometimes being injured or killed. These funds were not requested in the Pentagon's budget but were identified as a need by field commanders. So the committee justifiably appropriated more than $900 million to buy new helicopters. This will be lost from the bill when we vote for a CR instead of the omnibus.

We added $228 million to test and procure the new double-V hull improvements to Stryker armored vehicles, which will dramatically improve soldiers' protection. These were not included in the President's request.

To support our wounded warriors, we added $100 million for lifesaving medical research in psychological health and traumatic brain injury.

Under the CR, funding for the Cooperative Threat Reduction Program, which secures nuclear weapons and materials in Russia, would be reduced by $100 million.

There are hundreds of additional examples which could be described in defense alone, from breast cancer research to additional F–18 jets for the Navy which they have declared to be essential.

But it is not just defense that will be impacted. Similar issues will be found in every agency. It is evident, for example, that the threat to the security of the United States evolves every day. As evidenced by the growth of homegrown terrorism, such as the Times Square bomber, the New York subway plot, the Fort Hood shooting, and the recent efforts to blow up aircraft over the United States; whether the Christmas Day bombing attempt or the recent attempt to blow up all-cargo planes, it is critical that careful decisions be made on the allocation of resources to the Department of Homeland Security. But a continuing resolution would not provide the Transportation Security Administration with the resources necessary to enhance our defenses against terrorist attacks, such as Northwest flight 253 and the recent attempts against all-cargo aircraft.

This omnibus bill provides $375 million above the continuing resolution for TSA to acquire 800 explosives trace detection units, 275 additional canine teams, hire 31 additional intelligence officers, and strengthen our international aviation security.

This omnibus bill provides $52 million above the continuing resolution to deploy radiation portal monitors where vulnerabilities exist, such as airports and seaports, and for radiation-detection pagers and backpacks used to detect and identify nuclear materials.

Because we have chosen not to enact an omnibus, we will miss an opportunity to address cyber security at the Department of Transportation. The Department recently assessed the security of its computer systems and found it sorely lacking. Security gaps at the Department are putting at risk computer systems that manage our air traffic and monitor our national infrastructure. The Department requested $30 million for fiscal year 2011 to fix this problem as soon as possible. An omnibus appropriations bill would have provided this funding, but a CR will do nothing to address this urgent problem.

Not passing this omnibus would halt new national security enhancements intended to improve the FBI's cyber security, weapons of mass destruction, and counterterrorism capabilities and assist in litigation of intelligence and terrorism cases. The FBI will not be able to hire 126 new agents and 32 intelligence analysts to strengthen national security.

The omnibus was better for our brave men and women who work as members of law enforcement to make our streets and the everyday lives of our constituents safer.

Without an omnibus, the Department of Justice will not be able to hire 143 new FBI agents and 157 new prosecutors for U.S. attorneys to target mortgage and financial fraud scammers and schemers who prey on America's hard-working middle-class families and devastated our communities and economy.

When it comes to the health and well-being of our constituents, it is clear that passing an omnibus is just better policy. Again, we are talking about redirecting our resources to address today's needs, not last year's needs.

Specifically, the omnibus bill included $142 million in vital program increases for the Indian Health Service that are not in the CR, which includes $44 million for the Indian Health Care Improvement Fund, which provides additional assistance to the neediest tribes; an additional $46 million for Contract Health Services; an additional $40 million for contract support costs, as well as support for new initiatives in drug prevention, chronic diseases prevention, and assistance for urban Indian clinics. This omnibus bill would continue the strides that have been made in the recent past to significantly increase funding for the Indian Health Service and thereby provide more and better medical care for our

Native Americans and Alaska Natives. But this CR will bring that to a close.

There are hundreds more examples of what will not be done because the Congress will not pass this bill. However, because the CR turns over decisionmaking to the executive branch, we cannot even tell this body all the things the bureaucrats will not do that are important to Members of the Congress and to our constituents.

The bill I would have brought to the Senate represented a clear and far superior alternative. It better protected our national security. It ensured that the Congress determines how our citizens' funds will be allocated, as stipulated in our Constitution. It was written in coordination with Senate Republican Members. It was not a perfect document. It represented a lot of compromises. It made $29 billion in reductions from the President's program. But it was a good bill which ensured the programs important to the American people will be funded. It assumed responsibility for spending decisions that I believe are rightfully the duty of the Congress.

We find ourselves where we are today because we were unable to get this message across. In many respects it was a failure of communication. We were never able to adequately explain to everyone what the good things in this bill would have accomplished. So instead we are now faced with placing the government on autopilot. Our Republican colleagues will allow the administration to determine how to spend funds for another 2 months rather than letting the Congress decide.

In the 2 months, we will very likely find ourselves having to pass another 2,000-page bill that will cost more than $1 trillion or, once again, abdicating our authority to the administration to determine how taxpayer funds should be spent.

I wish there were a better way, but the decision by our colleagues on the other side who helped craft this bill has left us with no choice.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. MANCHIN). The Senator from Massachusetts.

Mr. KERRY. Mr. President, I think the Senator from North Dakota wanted to engage in a very brief colloquy regarding some of the funding on the modernization program, and I know Senator FEINSTEIN, the chairperson of the Intelligence Committee, wishes to talk about verification a little bit.

I do this with the indulgence of the Senator from California. If an amendment is ready, we are ready to go to an amendment. So we are not trying to delay by any speaker any movement to an amendment. I wish to restate that 58 Senators on this side of the aisle are ready to vote on this treaty this afternoon. We are ready to vote now. If there are amendments, we are also ready to take up those. We would love to see if we could get the process going.

I don't know if the Senator from North Dakota is here. He may not be here. I see the Senator from Tennessee is on his feet. He may wish to ask a question.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. CORKER. Mr. President, I do think there are getting ready to be some amendments coming forward. I had the opportunity, working with Senator LUGAR, to help write the resolution of ratification with the chairman. I don't personally have amendments, but I do think amendments are coming forth this afternoon. I know I and others are encouraging that process to begin. So I think that is getting ready to take place. My sense is there will be a number of very substantive amendments that come forward.

I wish to make a comment. I think I have helped this process along, and I have enjoyed it thoroughly. I watched something happen last night on the floor of the Senate with our majority leader, whom I respect, coming down and filing cloture on more campaign promise types of issues.

I am one of those who absolutely believes that when it comes to foreign policy, when it comes to military issues taking place overseas, partisanship absolutely should stop at our Nation's shore. That is why I have enjoyed this process so much.

I wish to say to our Presiding Officer that what has happened over the course of the last 12 hours is—by filing cloture last night on don't ask, don't tell and on the DREAM Act during a lameduck session in the middle of the START treaty, what it says is, Republicans—and I don't even like to use partisan labels—but, Republicans, you all need to rise up above partisanship and deal with foreign policy in a bipartisan way, but in the midst of that, we are going to throw some partisan issues in here that are campaign promises we made over the course of this last year when we ran for election.

I have to tell you what that has done. I have watched it. I have been in three meetings this morning. What has happened is it is poisoning the well on this debate on something that is very important. I don't want to see that happen.

I am not one who comes down here and says fiery things or tries to divide. I am just hoping that saner minds will prevail and that these issues that have been brought forth that are absolutely partisan, political issues, brought forth to basically accommodate activist groups around this country, I am hoping those will be taken down or I don't think the future of the START treaty over the next several days is going to be successful based on what I am watching.

I can understand human beings reacting the way they do to what happened last night at 7 o'clock, but I am hoping that is going to change. I am going to continue to work through this, and I am encouraging people to bring amendments forward. I know Senator LUGAR is doing the same. But to ask Republicans to rise up above—and I think we all should rise up above. I think foreign policy and nuclear armaments—there are actually real differences in this case, but I think we should try to work together to resolve those. But to say—to do that in the midst of throwing in political things that are strictly there for political gain doesn't add up.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. I thank the Chair. I didn't think I was actually yielding the floor. I thought I was yielding for a question, but I am happy to have my colleague make his comments, and I appreciate them.

Let me begin by saying I personally appreciate all of the efforts and good faith and engagement of the Senator from Tennessee, the Senator from Georgia on the committee, Senator LUGAR, and others. This has been bipartisan as a result, and that is the way it ought to be. We had a very significant vote, 14 to 4, coming out of our committee that brought this treaty to the floor. I am proud of that on behalf of the committee, and I think that is the way we ought to deal with it here.

Now, I don't want to get these other issues clouded up in this debate. That is not what I am trying to do, and I am not going to spend much time on it at all except to say this: We don't control what the House of Representatives decides to do. The majority leader does not. They decided to do something and they passed a bill and they sent it over here. That also has bipartisan support. The Senator knows my own feelings about how things should have been sequenced. We are where we are. If we are going to live up to the words of the Senator from Tennessee about keeping this treaty where it ought to be, which is in the square focus of our national security and our interests abroad, et cetera, my hope is that everybody will simply rise above whatever—however they want to view these votes. What is political in one person's eye may be a passionate, deeply felt issue of conscience in somebody else's eye.

I don't want to get this issue confused in that debate. I just don't want that. I think it is important for us to keep our eyes on the ball. This is about our national security, the entire national security community. Generals, admirals, our national strategic commanders, our military leaders from the Joint Chiefs of Staff through the command have all said: Pass this START treaty; we want it now. The issue is not why now, it is why would we delay? Why would we not do it now? So I hope we will get it done.

I think the chairman of the Intelligence Committee has some powerful reasons for why now, and she has come to the floor by a prearranged agreement to speak at 2 o'clock. So I would like to yield the floor to her for that purpose, if I may.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Thank you very much, Mr. President.

I see both the ranking member and the chairman of the committee on the floor. I wish to say a few words about both of them and the good name they give to bipartisanship. Both of them see how much of America's destiny is wrapped up in this treaty and how nuclear weapons become a bane of existence because of their size, because of their number, and because of this inexorable concern that they fall into the wrong hands somehow, some way, someday.

I am one of the few Members of this Senate who is old enough to have seen the bombs go off in Nagasaki and Hiroshima. I know the devastation that a 15- and 21-kiloton bomb can do. These bombs today are five times the size plus, and they can eradicate huge areas. If you put multiple warheads on them, the destruction is inestimable.

Mr. President, what is interesting to me about this debate is the fact that the Intermediate Range Nuclear Forces Treaty was approved by a vote of 93 to 5, the 1991 START agreement was approved by a vote of 9 to 6, and the 2002 Moscow Treaty was approved by a vote of 95 to 0. As the chairman of the committee, the distinguished Senator from Massachusetts, has pointed out time and time again on this floor, those treaties received less deliberation than is being given to this treaty. The relationship between the United States and Russia today is better today than was the relationship when previous treaties were ratified. And the New START treaty we are debating is a fairly modest measure. So I hope it will receive a strong vote for ratification.

Now, for my remarks. I come here as chairman of the Intelligence Committee to address comments that have been made on the other side of the aisle about this treaty, particularly as those comments relate to monitoring provisions. Let me just put out the bona fides.

The Intelligence Committee has studied the June 2010 National Intelligence Estimate on the intelligence community's ability to monitor this treaty. We had a hearing. We submitted more than 70 questions for the record. We received detailed responses from the intelligence community. Committee members and very highly technical, proficient committee staff participated in more than a dozen meetings and briefings on a range of issues concerning the treaty, focusing on the intelligence monitoring and collection aspects.

The conclusion is on my part that the intelligence community can, in fact, effectively monitor Russian activities under this treaty.

I would also like to say to all Senators I have just reviewed a new intelligence assessment from the CIA dated yesterday. It analyzes the effect of having New START's monitoring provisions in place and the loss on intelligence if the treaty is not ratified. I can't discuss the contents of the assessment on the Senate floor, but the report is available to all Senators. It is available through the Intelligence Committee, and Members are welcome to review this report and other documents, including the National Intelligence Estimate, in our offices in room 211 in the Hart Building.

Let me now describe the ways in which this treaty enhances our Nation's intelligence capabilities. This has been the lens through which the Senate Select Committee on Intelligence has viewed the treaty, and I believe the arguments are strongly positive and persuasive.

First, the intelligence community can carry out its responsibility to monitor Russian activities under the treaty effectively.

Second, this treaty, when it enters into force, will benefit intelligence collection and analysis.

The U.S. intelligence community will use these treaty provisions and other independent tools that we have outside of the treaty, such as the use of national technical means—for example, our satellites—to collect information on Russian forces and whether Russia is complying with the treaty's terms.

The treaty provisions include on-the-ground inspections of Russian nuclear facilities and bases—18 a year. There is going to be an amendment, I gather, to increase that. I will get to that later in my remarks. Second, regular exchanges on data on the warhead and missile production and locations. Third, unique identifiers—a distinct alphanumeric code for each missile and heavy bomber for tracking purposes. I reviewed some of that in intelligence reports this morning. A ban on blocking national technical means from collecting information on strategic forces, and other measures that I am going to go into.

Without the strong monitoring and verification measures provided for in this treaty, we will know less—not more—about the number, size, location, and deployment status of Russian nuclear warheads. That is a fact.

I think most of you know General Chilton, the Commander of the U.S. Strategic Command, who knows a great deal about all of this. He has said this:

> Without New START, we would rapidly lose insight into Russian nuclear strategic force developments and activities, and our force modernization planning and hedging strategy would be more complex and more costly. Without such a regime, we would unfortunately be left to use worse-case analyses regarding our own force requirements.

Think about that. Let me be clear. That is what a ''no'' vote means on this treaty.

Russian Prime Minister Vladimir Putin made the same point earlier this month. He said that if the United States doesn't ratify the treaty, Russia will have to respond, including augmentation of its stockpile.

That is what voting ''no'' on this treaty does.

These monitoring provisions are key, as are the trust and transparency they bring, and the only way to get to these provisions is through ratification.

In fact, we have not had any inspections, or other monitoring tools, for over 1 year, since the original START treaty expired; so, today, we have less insight into any new Russian weapons and delivery systems that might be entering their force. That, too, is a fact.

Thirteen months ago, American officials wrapped up a 2-day inspection of a Russian strategic missile base at Teykovo, 130 miles northeast of Moscow, where mobile SS–25 intercontinental ballistic missiles were deployed.

Twelve days later, their Russian counterparts wrapped up a 2-day inspection at Whiteman Air Force Base in Missouri, home to a strategic bomb wing.

Since then, nothing. Since those two inspections—one in Russia and one in the United States—we have essentially gone black on any monitoring, inspection, data exchanges, telemetry, and notification allowed by the old START treaty.

Let me describe the monitoring provisions in this treaty now, because many of them are similar to the original START treaty's provisions.

No. 1, the treaty commits the United States and Russia ''not to interfere with the national technical means of verification of the other party.'' That means not to interfere with our satellites and ''not to use concealment measures that impede verification.''

This means that Russia agrees not to block our satellite observations of their launchers or their testing. Without this treaty, Russia could take steps to deny or block our ability to collect information on their forces. And there are ways this can be done. Let me make clear that, absent this treaty, Russia could try and perhaps block our satellites.

To be clear, national technical means are an important way of identifying some of Russia's activities in deploying and deploying its nuclear forces. However, while I can't be specific here, there are some very important questions that simply cannot be answered through national technical means alone.

I have also reviewed those this morning, and those are available if a Member wants to know exactly what I mean by this. They can go to room 211 in the Hart Building, and members of the intelligence staff can inform them exactly what this means.

That is where other provisions of this treaty—including inspections, data exchanges, unique identifiers—come into play. Without them, we are limited in our understanding.

So believe me, this is a big problem for our intelligence agencies.

The second provision in New START on monitoring is a requirement that Russia provide the United States with regular data notifications. This includes information on the production

of any and all new strategic missiles, the loading of warheads onto those missiles, and the location to which strategic forces are deployed.

Under START, similar notifications were vital to our understanding. In fact, the notification provisions under New START are actually stronger than those in the old START agreement, including a requirement that Russia inform the United States when a missile or warhead moves in or out of deployed status.

Third, New START restores our ability to conduct on-the-ground inspections. There are none of them going on today, and none have been going on for over a year. New START allows for 10 so-called ''type one'' onsite inspections of Russian ICBMs, SLBMs, and bomber bases a year.

The protocols for these type one inspections were written by U.S. negotiators with years of inspection experience under the original START treaty. The day before yesterday, I went over the credentials of our negotiating team in Geneva, and many of them have done onsite inspections. So they know what they need to look for, and they provided those guarantees in this treaty. This is how some of it works.

First, U.S. inspectors choose what base they wish to inspect. It is our choice, not the Russians' choice. Russia is restricted from moving missiles, launchers, and bombers away from that base.

Then, when the inspectors arrive, they are given a full briefing from the Russians. That includes the number of deployed and nondeployed missile launchers or bombers at the base, the number of warheads loaded on each bomber and—and this is important—the number of reentry vehicles on each ICBM or SLBM.

So you can pick your base, go to it, get the briefing. These missiles are all coded with unique identifiers, so you can do your inspection, and you know what you are looking at.

Third, the inspectors choose what they want to inspect. At an ICBM base, the inspectors choose a deployed ICBM for inspection, one they want to inspect. At a submarine base, they choose an SLBM. If there are any nondeployed launchers, ones not carrying missiles, the inspectors can pick one of those for inspection as well. At air bases, the inspectors can choose up to three bombers for inspection.

Fourth, the actual inspection occurs, with U.S. personnel verifying the number of warheads on the missiles, or on the bombers chosen. As I mentioned earlier, each missile and bomber is coded with a specific code, both numerically and alphabetically, so you know what you have chosen and where it's been before.

Under this framework, our inspectors are provided comprehensive information from the Russian briefers. They are able to choose themselves how they want to verify that this information is correct. And there are ways of doing that to verify.

The treaty also provides for an additional eight inspections a year of nondeployed warheads and facilities where Russia converts or eliminates nuclear arms.

Some people have commented that the number of inspections under New START—that is, the total of 18 that I just described—is smaller than the 28 under the previous START treaty, and that is true. But it is also true that there are half as many Russian facilities to inspect than there were in 1991, when START was signed. I just looked at a map this morning of these Russian bases, of the silo locations, of the bombers, of the submarine pens. The numbers are dramatically smaller than at the end of the Cold War, when the first START treaty was signed.

These inspections should suffice, because the numbers are so down.

In addition, inspections under New START are designed to cover more topics than inspections under the prior START agreement.

In testimony from the Director of the Defense Threat Reduction Agency, called in Washington-ese ''DTRA,'' Kenneth Myers, the agency doing these inspections, said:

> Type one inspections will be more demanding on both the DTRA and site personnel, as it combines the main part of what were formerly two separate inspections under START into a single, lengthier inspection.

So, whereas, you go from 28 down to 18, and 10 type one inspections, you can take more time and they are much more comprehensive.

Some of my colleagues who question this treaty have raised a couple of problems with the monitoring provisions. Let me address a couple of them now.

First, under START, United States officials had a permanent presence at the Russian missile production facility at Votkinsk.

Inspectors could watch as missiles left the plant to be shipped to various parts of the country. New START does not include this provision. In fact, the Bush administration had taken the provision off the table in its negotiations with the Russians prior to leaving office.

New START does, however, require Russia to mark all missiles, as I have been saying, with numeric and alphabetic codes—with these unique identifiers, so that their location can be tracked and their deployment status tracked over the lifetime of the treaty.

The treaty also requires Russia to notify us at least 48 hours before a missile leaves a plant. So we will still have information about missile deployment and production.

Our inspectors and other nuclear experts have testified that these provisions are, in fact, sufficient. Now, look, I appreciate that every one of us does our due diligence. But let me tell you, there is nothing like the view of a former inspector.

There is nothing like the view of people who have actually done this work. These are the people who were involved in the negotiation. There is nothing like the recommendation of the entire top command of our strategic forces, the civilian leadership, and the top officials of our intelligence community, all of whom are for this treaty.

We listen to our military, it seems to me, on views that affect the security of this Nation. We should with respect to this treaty. I have not seen a single warrior come forward—who is in the top command—who has said we should not endorse this treaty. I think that is significant. Instead, dozens have come forward to point out how important this treaty is.

START required the United States and Russia to exchange technical data from missile tests. That is known as telemetry. It required that you release it to each other but not to other countries. That telemetry allows each side to calculate things, such as how many warheads a missile could carry. This was important as the START treaty attributed warheads to missiles. If a Russian missile could carry 10 reentry vehicles, the treaty counted it as having 10 warheads. Information obtained through telemetry was, therefore, important to determine the capabilities of each delivery system.

New START, however, does away with these attribution rules and counts the actual number of warheads deployed on missiles. No more guessing whether a Russian missile is carrying one or eight warheads. With this change, we don't need precise calculations on the capability of Russian missiles in order to tell whether Russia is complying with the treaty's terms, so telemetry is not as necessary to monitor compliance with New START.

Nonetheless, because this came up in the negotiations, as a gesture to transparency, the treaty allows for the exchange of telemetry, between our two countries only, up to five times a year if both sides agree to do so.

In fact, it should be pointed out that if the treaty included a broader requirement to exchange telemetry, the United States might have to share information on interceptors for missile defense, which the Department of Defense has not agreed to do.

Third, there has been a concern raised about Russian breakout capability—a fear that Russia may one day decide to secretly deploy more warheads than the treaty would allow or to secretly build a vast stockpile that could be quickly put into its deployed force. I do not see this as a credible concern. Here is why.

According to public figures, Russian strategic forces are already under or close to the limits prescribed by New START. They have been decreasing over the past decade, not just now but for a long time. There are many reasons for this, but I think it is incontrovertible that is fact.

So the concern about a breakout is a concern that Russia would suddenly decide that it wants to reverse what has

been a 10-year trend and deploy more weapons than it currently believes are necessary for its security. They would also have to decide to do this secretly, with a significant risk of being caught.

Because of the monitoring provisions, the inspections, our national technical means, and other ways we have to track Russian nuclear activities, I think Moscow would have a serious disincentive to do that. Moreover, instead of developing a breakout capability, Russia could decide, instead, to simply withdraw from the treaty, just as the United States did when President Bush withdrew from the antiballistic missile treaty.

Finally, even in the event that Russia did violate the treaty and pursue a breakout capability, our nuclear capabilities are more than sufficient to continue to deter Russia and to provide assurances to our allies.

Mr. President, the bottom line is that the intelligence community can effectively monitor this treaty. If you vote no, you are voting against these monitoring provisions.

The second question I raised at the beginning of my remarks that is relevant to New START is whether ratifying the treaty actually enhances our intelligence collection and analysis. This is above and beyond the question of whether the intelligence community will be able to fulfill its responsibility to monitor Russian compliance with the treaty's terms.

Again, I am unable to go into the specifics, but the clear answer to this question is yes. The ability to conduct inspections, receive notifications, enter into continuing discussions with the Russians over the lifetime of the treaty will provide us with information and understanding of Russian strategic forces that we will not have without the treaty. If you vote no, we will not have it.

The intelligence community will need to collect information about Russian nuclear weapons and intentions with or without New START, just as it has since the beginning of the Cold War. But absent the inspectors' boots on the grounds—and that is what is at risk here—the intelligence community will need to rely on other methods.

Put even more simply, the Nation's top intelligence official, Director of National Intelligence James Clapper, has said he thinks ''the earlier, the sooner, the better'' that this treaty is ratified. ''We're better off with it.''

You know, I don't think I need to tell this body what is at stake in terms of our relationship with Russia. The Russian Federation is not the Soviet Union, and this is an important reform vehicle of a new, young Russian President who wants to enter into a much more cooperative and transparent time with our country.

Russia has been of help to our country, letting our equipment go through Russian land into Afghanistan when Pakistan has blocked passage and in terms of refusing to sell a missile defense system to Iran that it had previously agreed to provide.

I think what this projects to the world as a whole is very important in this world of asymmetric warfare. What it projects is that the United States and the Russian Federation are willing to stand together. I think the gesture of that standing together that is envisioned in the enhanced cooperation of this treaty should never be underestimated.

Members, we need all of the major powers to come together in this new world of asymmetric warfare in which we are engaged, and most likely will be engaged for a long period of time. So I very much hope that the votes are there for ratification.

Let me end with this: During the 15-year lifespan of the first START agreement, the United States conducted 659 inspections of Russian nuclear facilities, and Russia conducted 481 inspections of our facilities. Again, it has been more than a year since American inspectors were at a Russian nuclear facility. We have been in the dark for 1 year. It is time to bring the light of New START to bear.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank the Senator from California. I think Senators will agree she has a reputation here for calling things the way she sees them. And as the Chair of the Intelligence Committee, I think all of us are grateful for the diligence with which she approaches these issues of national security. She is ahead of the curve, she doesn't hesitate to hold the President or any of us accountable if she sees something differently, and I greatly appreciate her insights on the verification measures in this treaty.

Mr. President, I ask unanimous consent that the Senator from Idaho be recognized for 10 minutes, after which the Senator from Arizona, Senator MCCAIN, be recognized to propose an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Idaho.

Mr. RISCH. Mr. President, I come to the floor today to make some general comments about the matter under consideration, and that being the possible ratification of the New START treaty.

First, let me say I come with what I think is a unique perspective, in that I sit on both the Foreign Relations Committee and the Intelligence Committee. In addition to that, I am rather new here so I have a fresh set of eyes, if you will, on these kinds of issues.

The ability to be able to talk about these issues and to debate them and then cast a vote is somewhat frustrating, and that is a view I share with my friend and the distinguished Senator from California, Senator FEINSTEIN, the chairman of the Intelligence Committee. Just like her, my views of this matter are colored to some degree and are affected to some degree by matters that we can't talk about here and that we can't disclose. Nonetheless, that obviously cannot stop us from having hopefully as productive a discussion as possible about this subject matter, and it has been a productive discussion.

There are good things that have come out of this so far, and I am going to talk about those in a minute. But let me say one thing I have been impressed with throughout. I have sat through I can't tell you how many hours of meetings, of briefings, of actual field trips out to facilities, and all those kinds of things, but I have been impressed with the good faith of everyone who is working on this matter.

This is a unique situation that we as Senators have a constitutional responsibility to focus on. Our responsibility in this is equal to the President of the United States. A foreign treaty such as this, the Founding Fathers said, can only come into play if, on the one hand, the President of the United States signs off on it; and if, on the other hand, two-thirds of the Senators sign off on it. So our responsibilities are equal in that regard. As a result of that, all of us need to, in my judgment, approach this on a good-faith basis and on a what-is-best-for-America basis.

All of us have seen the people on TV who are very sarcastic about who is going to win and who is going to lose. The only ones we need to be concerned about who will win and lose are the American people.

I have come to some conclusions throughout this that are new to me. One, of course, is the fact—and these are some observations I want to make about the whole process—that everyone is approaching this in good faith. The second conclusion that I have reached—and I think is widely held—is that we are much better off if we have a treaty than if we don't have a treaty. I would, however, modify that by saying but not just any treaty.

Those are just observations, along with one other that I have, which is that there are some good things in this particular treaty, not the least of which are the things people have talked about here, and that is, first of all, having a relationship with the Russians; and secondly, having actual inspections, even though they are very attenuated, but nonetheless having inspections; and thirdly, having a table around which people can get around and discuss possible violations or accusations one might have against the other.

That brings me to the next subject I want to talk about, and that is the historical basis we find ourselves in.

The people who did this 40 years ago and actually started the dialog and took us to the first treaty with the Russians are real heroes. They are people who were patriots and people to whom we owe a great deal of gratitude. They have set this stage, if you would, for where we are today.

Probably the most important thing they have given us is a 40-year history of dealing with this. When they sat down at the table, they did the things they did to come to the agreements they did, but the overriding philosophy on the defense of the United States against Russia and the defense of Russia against the United States was that if either one launched against the other, the other would launch, which would ensure the mutual destruction of both parties. That has been the philosophy under which we have operated for the 40 years.

Over the 40 years—sometimes things take a long time to sink in, but I think the Russians have come to the conclusion, as Americans have come to the conclusion, that is not a good thing. The likelihood of either party pulling the trigger on the other, in my judgment, and I think probably in the judgment of most people, is not very likely. Is it possible? Of course, it is possible. Anything is possible. An accidental launch is possible—I do not believe from our side. Without going into the details of this, but through my intelligence work I have looked at the failsafe things we have in place, and I do not believe we are going to have an accidental launch. I do not have the same level of confidence with the other side.

Nonetheless, I believe the likelihood of either party doing this is highly unlikely. Where does that take us to today? The world has changed in 40 years. Forty years ago, when we sat down with the Russians, we were the two superpowers in the world. We were essentially the two that had these kinds of arms. We were worried about each other—for good reason.

Today that is a very different situation. I am much more concerned, and I think most people are much more concerned, about North Korea, about Iran, and for that matter some other countries that have nuclear weapons, as far as being a threat to us in the United States. One of the overriding concerns I have had and criticisms, if you would, is that we are focusing in this exercise, again on this 40-year history and relationship we have with Russia without bringing into the mix the other real issues—and there are real issues.

The first one I will talk about is modernization. That is one of the good things that has come out of this. There has been tremendous movement since the beginning of this on people's realization that our need to modernize our nuclear stockpile is very real. I commend the administration. I commend the chairman and the cochairman of the committee for pursuing that issue. Great strides have been made in that regard.

The other issue we are going to talk about a lot—in fact, my distinguished colleagues from Wyoming and Arizona are going to lay down an amendment in a moment about an issue that is of top priority to me, and that is the missile defense issue. I am going to talk more about the details of that when we actually get into debating this amendment. Suffice it to say, the concerns I have had and the criticism I have had of this process is we are still talking about this in terms that existed 40 years ago, instead of the terms of the real world we live in today, where we have an overhead threat from nations that we, in my judgment, have not adequately addressed.

I think one of the criticisms I have is we have missed an opportunity on missile defense. We did not miss that opportunity on modernization, but we have missed it on missile defense.

I am going to close with this. It brings me to my last two points. Time is important as you go through these things. I do not like us being up against the deadline we are up against when we have a matter of this magnitude we should be debating. That colors my judgment, what I think is the lack of time for consideration for the most deliberative body of the world to actually deliberate on this issue.

The last one that I have real difficulty with is a matter of what we call the transcripts. You heard me talk earlier about the fact that we have the same responsibilities as the President of the United States in making the decision on this. Yet he has access to the transcripts of the negotiators, and we have been denied access to the transcript of the negotiators, which gives me pause. Most reasonable people would not accept something, sign on to a contract—which is what we are doing with ratifying this—without knowing all the facts. I can tell you we do not know all the facts. That particularly becomes important. I am troubled by the missile defense issues we have. I would like to know what assurances were given to the Russians regarding missile defense, particularly when I read their independent statements, their third-party statements about this.

I would like to know what is in those transcripts. So that is a very difficult bridge I am going to have to cross.

Nonetheless, my vote on this depends upon the amendments—and there are real amendments addressing real issues in this discussion. My final vote is going to depend upon what actually happens in the amendment process.

I yield the floor for my distinguished colleague from Arizona, Senator MCCAIN.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Would the Senator from Massachusetts give me 1 minute? I wish to say something to the Senator from Idaho.

First of all, I appreciate the constructive way in which he has outlined his approach to these questions. I think he has made a number of important statements about the good side of what is in this treaty. I appreciate he would like to see how we can work through this amendment process.

Let me say to him and other colleagues who are in the same place, actually listening to him I think I gained a greater appreciation for the point he is trying to make with respect to how missile defense has been framed in this discussion. I think he is appropriately trying to step away from only seeing it in the context of the former Soviet Union, U.S., Warsaw Pact, NATO, Russia, and the United States now, and how that offense-defense posture is addressed. Because he is thinking, I believe, if I understand him correctly, about the multiple points of concern from which—obviously, you have to sort of think differently about the deployment.

I would say to him that is precisely, I think, how the administration is thinking about deployment. But it suggested to me that maybe there is a way for us to find common language that, in a declaration or an understanding, might embrace that more to the liking of the Senator, without doing injury to the treaty as a whole so we kill the treaty because we have to go back to the Russians and renegotiate it, which becomes the critical thing. I would like to work with him and some colleagues on that and see if we can come to agreement on it. I think that is an important component.

I would also mention that the Senator has given access to a classified summary of the negotiating record with respect to missile defense and that was something we worked very hard to get the administration to do and I hope, indeed, that was helpful.

The PRESIDING OFFICER. The senior Senator from Idaho.

Mr. RISCH. Thank you, Mr. Chairman. You have correctly identified the serious concerns that I and a number of others have. I am delighted to hear your invitation to attempt to clarify these matters where we can protect the American people, which is the highest objective that both he and I share.

Regarding the transcripts, I am not satisfied with a summary. I would like to see the transcripts. That is a point we can discuss at another time.

I thank the Senator for his consideration.

Mr. KERRY. Mr. President, I will work with the Senator. Obviously, I believe, if you look at the resolution of ratification, I think we bent over to address it. But if it does not do it for the Senator adequately, I will try to see if we can find a way to do that. We will work on it in the next hours.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I have a parliamentary inquiry: What is the parliamentary situation as it exists on the floor at this time?

The PRESIDING OFFICER. The treaty is pending.

Mr. MCCAIN. Is there not other business before the Senate at this time?

The PRESIDING OFFICER. No, there is not, sir.

Mr. MCCAIN. What about the filing of petitions for cloture on what is known as don't ask, don't tell and what is known as the DREAM Act?

The PRESIDING OFFICER. That is in the legislative session and we are in executive session.

Mr. MCCAIN. That is part of the legislative session and we are in executive session.

The PRESIDING OFFICER. Correct.

Mr. MCCAIN. But time is still pending on the matters in legislative session; is that correct?

The PRESIDING OFFICER. The time of the cloture motion is ripening, but we are in executive session.

Mr. MCCAIN. I understand. So here we are, the date is Friday, December 17, and we are on the START treaty, a treaty—any treaty is a serious matter before the Senate. This is of the utmost seriousness. Meanwhile, there is a cloture motion.

Will the Parliamentarian please correct me. Both these that the time is running on are both privileged messages, which means there is no vote on the motion to proceed; is that correct?

The PRESIDING OFFICER. There is no need for a motion to proceed with the House message.

Mr. MCCAIN. What, we are about 6 weeks after the last election, now discussing the START treaty, and I will have an amendment I will be proposing in a moment that I think is important. Meanwhile, two other issues, both of which are very controversial, cloture has been filed on and the clock is running.

There are also threats that we may have, again, other votes on things such as relief for the New York 9/11 people, the firefighters issue, and a couple others. Online gambling has been mentioned in the media as one of the majority leader's proposals.

Again, here we are. People spoke clearly on November 2. It was, in the words of the President of the United States, a ''shellacking.''

What are we doing on December 17? We are in one session of the Senate, the executive session. Meanwhile, the legislative session will go on. Who knows what issue the majority leader will bring—another issue before the Senate, maybe get a couple more privileged messages from the other side, file it, run the clock, 30 hours, and then force the Members of this body, of which there will be five additional Members beginning January 5—and at the same time my friend from Massachusetts and the President of the United States and proponents of the treaty are saying: Put partisanship aside, put your concerns aside, trust us because this is very important for the Nation.

What possible good does it do when the majority leader continues to bring up issues and force us to have votes on them, which is clearly in keeping with the majority on the other side's political agenda? It is kind of a remarkable situation.

I have been around this body for quite some years. I have not seen a degree and intensity of partisanship that I see today in the Senate. All of us want to do what is right for the country. That is why this START treaty deserves serious consideration. It deserves serious consideration by itself. But this body operates in an environment of cooperation and comity. That very much is not in existence today.

We will then, tomorrow, I take it—on Saturday we will go off the executive calendar, onto the legislative calendar, force votes on these two very controversial issues, and then maybe, if it moves him so, the majority leader will bring up another issue as he has in the past to force votes, most of which of those votes he knows very clearly will not succeed but will give him and the other side some kind of political advantage. That was not the message of the last election.

So I think a number of us are growing weary of this on this side of the aisle. We are just growing weary. And we believe the people of this country spoke—in the words of the President of the United States: a shellacking—and we ought to perhaps keep the government in operation, go home, and, in less than 2 weeks or a little over 2 weeks, let the newly elected Members of Congress on both sides of the Capitol address many of these issues.

Now, I do not know if we will get through all the amendments and all of the debate that a solemn treaty deserves before the Senate. I really hope we can. I would also remind my friend from Massachusetts that my colleague from Arizona, certainly the most respected person on this issue on this side of the aisle, has offered a date certain of January 25, with a final vote on February 3, to the other side. That, obviously, has not been acceptable to them. By the way, that would be with the input of the newly elected Senators, not of those who are leaving.

So I look forward to continuing this debate and discussion. And who knows what other issue the majority leader may bring before the Senate—maybe a privileged message again, which would only then require one cloture vote, and we will then be forced to take another politically impactful vote.

So I tell my colleagues that we are getting tired of it. We grow weary. And it is not that we want to ''be home for Christmas.'' I spent six Christmases in a row away from home. But what it is about is responding to the American people.

Yesterday, the American people, in a resounding victory for those who voted November 2, rejected the Omnibus appropriations bill. I believe some of the issues before the Senate deserve the participation of the newly elected Members of the Senate and House.

AMENDMENT NO. 4814

(Purpose: To amend the preamble to strike language regarding the interrelationship between strategic offensive arms and strategic defensive arms)

Mr. MCCAIN. So, Mr. President, at this time, on behalf of myself and the Senator from Wyoming, Mr. BARRASSO, I call up amendment No. 4814.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN], for himself and Mr. BARRASSO, proposes an amendment numbered 4814.

In the preamble to the New START Treaty, strike ''Recognizing the existence of the interrelationship between strategic offensive arms and strategic defensive arms, that this interrelationship will become more important as strategic nuclear arms are reduced, and that current strategic defensive arms do not undermine the viability and effectiveness of the strategic offensive arms of the Parties,''.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I would like to thank my friend and colleague from Wyoming, Dr. BARRASSO. It has been a great privilege for me, since he has been a Member of the Senate, to be with him side by side in a number of battles.

I am particularly proud of the work Senator BARRASSO continues to do on the issue of ObamaCare. If anyone wants to really be brought up to date, I would commend his Web site, Second Opinion, that Dr. BARRASSO has, and he continues to be incredibly knowledgeable and effective not only here in this body but with the American people.

As a member of the Foreign Relations Committee, Dr. BARRASSO has taken on this issue as well, and I am pleased to be joined with him.

I would say to my colleague from Massachusetts, the distinguished chairman of the Foreign Relations Committee, I know there are a number of Senators who want to speak. I will try to get those lined up and time agreements so that we do not take an inordinate amount of time on this issue, and I think we can do that, say, within the next hour or so.

But this is an important amendment. This is really one of two major issues that concern many Members of this body and many Americans. One is the modernization of our nuclear inventory, which I think continues to be a subject of discussion, agreements, some disagreements, but is important, and my colleague from Arizona, Senator KYL, of course, has been following that issue since the 1980s. I know of no one who has been more heavily involved in that side of the issue. The other is, of course, this whole issue of defensive weapons—how the provisions of the treaty affect the entire ability of the United States, unconstrained by this treaty, to move forward where it deems necessary to put defensive missile systems to protect the security of this country.

I would like to remind you how vital this is. We are living in a world where the North Koreans have nuclear weapons and missiles. The Iranians have missiles and the ability to deliver nuclear weapons. The Pakistanis have nuclear weapons. Other countries throughout the world are developing nuclear weapons and the means to deliver them. So our concern is not so much what the Russians will do in the form of offensive nuclear weaponry—

and I will be glad to discuss Russian media reports about the Russians building a new missile and moving ICBMs to the borders of Europe and all that—but the main problem here is, can the United States, under the treaty, have the ability to put into place defensive missiles which will protect the security of the United States of America?

We all know that proliferation of weapons of mass destruction and the means to deliver them is one of the major challenges of the 21st century. So I think it is vital—it is vital—that we make it perfectly clear that there is nothing in this treaty that constrains our ability to pursue that aspect of America's defense. So it is deeply disturbing to so many of us when the preamble of the New START treaty says:

Recognizing the existence of the interrelationship between strategic offensive arms and strategic defensive arms, that this interrelationship will become more important as strategic nuclear arms are reduced, and that ''current''—

I am going to emphasize the word ''current''—

strategic defensive arms do not undermine the viability and effectiveness of the strategic offensive arms of the Parties. . . .

The operative word there, my friends, is ''current.''

I have been around long enough to have lived through the history of missile defense. It is not that old of an idea. In the middle of the last century, the idea that we could develop and deploy strategic defensive weapons sounded like science fiction and wishful thinking. For the most part, it was.

A few decades later, it was with this view of missile defense's fantasy that opponents of the idea mocked President Ronald Reagan, who was more committed than any American President before him to the prospect of developing viable missile defense systems—what President Reagan called his Strategic Defense Initiative, which became known to all of us as SDI.

This idea scared the Soviet leaders to death because they realized how serious he was about it and because the idea represented a threat to the very balance of terror that threatened all of mankind during the Cold War. Arms control theorists saw this terror stabilizing—mutual assured destruction as stabilizing—and believed that missile defenses could therefore be destabilizing.

As a result, the key pillar of Cold War arms control was the established interrelationship between strategic offensive weapons and strategic defensive weapons. This linkage was codified in the Anti-Ballistic Missile Treaty, among other treaties and agreements. It established that effective missile defenses, if developed, could threaten the strategic offensive capabilities of the United States and the Soviet Union. For that reason, it limited the development and deployment of such defensive weapons.

President Reagan believed that viable missile defense systems—in particular, his Strategic Defense Initiative—held out the opportunity to eliminate the threat of nuclear holocaust and thereby render nuclear weapons irrelevant. President Reagan was one of the leading proponents of a world without nuclear weapons, and he believed that it was missile defense, not just arms control agreements, that would make that world possible.

My friends, if I may take you on a trip down memory lane, the debate on that subject was spirited, it was passionate, and it was a fundamental debate that took place in this country during the 1980s. That is why, at the Reykjavik Summit of 1986, when Soviet Premier Mikhail Gorbachev cited the ABM Treaty as legal grounds for imposing what President Reagan believed was a critical limitation on the strategic defense initiative, the President broke off the negotiation and walked out—one of the most remarkable acts in recent history. You can imagine the initial response of the media and others to President Reagan walking out of arms control talks.

With the end of the Cold War and the collapse of the evil empire, the United States and Russia were no longer mortal enemies with the means to threaten one another's existence. But the proposal of missile defense, this was an opportunity to break once and for all the long-accepted linkage, the interrelationship between strategic offensive and defensive weapons.

In a recent op-ed in the Wall Street Journal dated December 7, 2010, former Secretary of State Condoleezza Rice explains why breaking this linkage between offensive nuclear weapons and missile defense was so important in the post-Cold War, post-September 11 world. I quote:

When U.S. President Bush and Russian President Putin signed the Moscow Treaty in 2002, they addressed the nuclear threat by reducing offensive weapons as their predecessors had. But the Moscow Treaty was different. It came in the wake of America's 2001 withdrawal from the Antiballistic Missile Treaty of 1972. And for the first time, the United States and Russia reduced their offensive nuclear weapons with no agreement in place that constrained missile defenses.

Breaking the link between offensive force reductions and limits on defense marked a key moment in the establishment of a new nuclear agenda no longer focused on the Cold War face-off between the Warsaw Pact and NATO. The real threat was that the world's most dangerous weapons could end up in the hands of the world's most dangerous regimes—or of terrorists who would launch attacks more devastating than 9/11. And since those very rogue states also pursued ballistic missiles, defenses would (alongside offensive weapons) be integral to the security of the United States and our allies.

This brief background helps explain a key concern I have with the New START treaty as it relates to missile defense: that because of one clause agreed to by the parties in the treaty preamble, the Russian Government could use the treaty in its present form as a tool of political pressure to limit U.S. decisions about our missile defense systems.

I have followed this issue of missile defense pretty closely while the treaty was being negotiated. As I have said before, I am concerned by the series of events that led to the treaty's handling of missile defense. First, the Senate was told that this treaty would in no way reference the development and deployment of U.S. missile defense systems.

Here is what Under Secretary of State Ellen Tauscher said on March 29, 2010, and I quote:

The treaty does nothing to constrain missile defense. This treaty is about strategic weapons. There is no limit on what the United States can do with its missile defense systems.

But then, for some reason, after being told this treaty was not about missile defense, the Senate was then told there would be a reference to missile defense after all, but that it would only be in the preamble of the treaty which, of course, is not legally binding. That was worrisome enough, but then we saw the treaty and not only was there a reference to missile defense in the preamble, but there was also a limitation to our missile defense deployments in the body of the treaty itself in article V. This may not be a meaningful limitation, but it is a limitation nonetheless and a legally binding one at that. This sets a very troubling precedent.

What I want to focus on this afternoon is the reference to missile defense that appears in the preamble, because that language carries a lot of historical significance and strategic weight, and it has been the root of mine and other Senators' concerns about how the Russian Federation could use this treaty as a de facto veto against U.S. missile defense systems. This is what the eighth clause of the preamble says, and I quote from the preamble:

Recognizing the existence of the interrelationship between strategic offensive arms and strategic defensive arms, that this interrelationship will become more important as strategic arms nuclear arms are reduced, and that current strategic defensive arms do not undermine the viability and effectiveness of the strategic offensive arms of the Parties.

There are many problems with this statement, and more that stem from it. First, it reestablishes—after what I told my colleagues about what happened during the Reagan administration because we worked very hard over the past—I mean over the Bush administration, and I say reestablishes because we worked very hard over the past decade to decouple these two concepts, our offensive nuclear weapons and our missile defenses. During the Cold War, the Soviet Union was always terrified of the prospects of U.S. missile defense. Ever since President Reagan proposed the strategic defense initiative, the Russians have sought to limit development and deployment of our strategic arms because they knew they could never compete. They sought to bind our actions on missile defense through legal obligations in treaties,

and when that didn't work, through political commitments or agreements that could be cited to confer future obligations, and thus transformed into as a political threat. In short, the Russians have always understood that U.S. missile defenses would be superior to any defensive system the Russian Federation, and the Soviet Union before it, could ever deploy, so they have been relentless in trying to block it.

It is for this reason and because the Bush administration worked so hard to break the linkage between strategic offensive and defensive weapons that former Secretary of State Condoleezza Rice concluded her recent op-ed which I cited earlier with the following counsel to this body:

[T]he Senate must make absolutely clear that in ratifying this treaty, the United States is not reestablishing the Cold War link between offensive forces and missile defenses. New START's preamble is worrying in this regard, as it recognizes the 'interrelationship' of the two.

The reestablishment of the interrelationship is one problem with this clause in the preamble, but there are others. A second problem comes in the next line which states:

that this interrelationship will become more important as strategic arms are reduced.

This is only enhancing and strengthening the linkage between our offensive nuclear weapons and our missile defenses. Because this treaty will modestly reduce our strategic nuclear arms, and if the President is serious about his vision of a nuclear-free world—and I believe he is serious—then the importance of this agreed-upon interrelationship will only deepen in the years ahead. This takes an already problematic idea and makes it even more potentially damaging.

The third problem, and the one which potentially has the most direct consequences, comes in the next line which states:

that current strategic defensive arms do not undermine the viability and effectiveness of the strategic offensive arms of the Parties.

This clause lays the groundwork for the political threat the Russian Federation wants to hold over the United States with regard to its missile defense deployments. By saying that current missile defenses do not undermine the treaty's viability and effectiveness, this agreed-upon language in the preamble establishes that future missile defense deployments could undermine the treaty, thereby establishing a political argument that the Russian Federation will surely use at a future date and try to keep us from building up our missile defenses. In short, we have handed the Russian Government the political pressure they have sought for so long to bind our future decisions and actions on strategic defensive arms.

Imagine a world a few years from now when, God forbid, an Iran or North Korea or some other rogue state has deployed longer range ballistic missiles and a deployable nuclear capability much earlier than we assessed they could. Imagine we are faced with a situation where unforeseen events compel us for the sake of our national security and that of our allies to qualitatively and quantitatively build up our missile defenses to improve our current systems, or develop and deploy new systems, to counter a new and far greater threat than we expected. And then imagine that the Russian Government tells us that if we consider taking these actions that we deem to be in our national security interests, then such an action to improve our missile defenses would undermine the treaty's effectiveness and viability. This is an unacceptable constraint on U.S. decisionmaking.

As if to drive home the large potential problems that stem from this clause in the preamble, the Russian Government issued a unilateral statement at the time the treaty was signed. I realize this statement is not legally binding either, but it certainly adds to the political commitment that the Russian Federation believes the United States has made on limiting our missile defenses. This is a remarkable statement, and it deserves to be read in full, and I quote:

The treaty between the Russian Federation and the United States of America on Measures for the Further Reduction and Limitation of Strategic Offensive Arms signed at Prague on April 8, 2010, may be effective and viable only in conditions where there is no qualitative or quantitative buildup in the missile defense system capabilities of the United States of America. Consequently, the extraordinary events referred to in article XIV of the Treaty also include a buildup in the missile defense system capabilities of the United States of America such that it would give rise to a threat to the strategic nuclear force potential of the Russian Federation.

That is a very clear statement made by the Russian Government about the linkage between defensive missile systems and offensive arms. This is the Russian interpretation of what our two governments have agreed to in the preamble. They explicitly draw the connection between strategic offensive and strategic defensive arms. They explicitly state that the United States is limited in its development and deployment of missile defense systems. They explicitly refer to the language in the preamble about the ''effectiveness and viability'' of the treaty in order to claim that any buildup or improvement in U.S. missile defense systems would undermine the treaty. Then they go one step further. They draw a logical connection between what was agreed to in this clause of the preamble to article XIV of the treaty, which establishes the rights of the parties to withdraw from the treaty and the conditions under which they may do so. In short, the Russian Government has effectively turned a nonbinding political agreement into the pretext of what it believes is a legal obligation under the treaty itself.

You don't have to take my word for it. Listen to what Russian leaders themselves have said. Here is Russian Foreign Minister Sergei Lavrov speaking on March 28, 2010:

[T]he treaty and all obligations it contains are valid only within the context of the levels which are now present in the sphere of strategic defensive weapons.

Here is Foreign Minister Lavrov again on April 6, 2010:

Russia will have the right to exit the accord if the U.S.'s buildup of its missile defense strategic potential in numbers and quality begins to considerably affect the efficiency of Russian strategic nuclear forces . . . Linkage to missile defense is clearly spelled out in the accord and is legally binding.

I would remind my colleagues these are the statements of the Russian Foreign Minister. And here is everybody's favorite President, Dmitry Medvedev, speaking to the Russian Parliament on November 30—November 30, 2010.

Either we reach an agreement on missile defense and create a full-fledged cooperation mechanism, or if we can't come to a constructive agreement, we will see another escalation of the arms race. We will have to make a decision to deploy new strike systems.

Finally, here is my favorite, Prime Minister Vladimir Putin, speaking on ''Larry King Live'' on December 1, 2010:

I want you and all the American people to know this. At least those spectators who will follow our program here. It's not us who are moving forward our missiles to your territory. It's you who are planning to mount missiles at the vicinity of our borders, of our territory.

We've been told that you'll do it in order to secure against the, let's say, Iranian threat. But such a threat as of now does not exist. Now if the rudders and counter missiles will be deployed in the year 2012 along our borders, or 2015, they will work against our nuclear potential there, our nuclear arsenal. And certainly, that worries us. And we are obliged to take some actions in response.

Unfortunately, at the time the treaty was signed, after agreeing to this problematic clause in the preamble, the U.S. negotiators did not use the opportunity to make a unilateral statement of their own to decisively and unequivocally discredit the Russian Government's claims. Instead, this is the statement the U.S. Government issued in response to the statement I read, the signing statement:

The United States of America takes note of the Statement on Missile Defense by the Russian Federation. The United States missile defense systems are not intended to affect the strategic balance with Russia. The United States missile defense systems would be employed to defend the United States against limited missile launches, and to defend its deployed force, allies and partners against regional threats. The United States intends to continue improving and deploying its missile defense systems in order to defend itself against limited attack and as part of our collaborative approach to strengthening stability in key regions.

My friends, I understand diplomacy, and I understand statements that are equivocal. That certainly stands out as one of those.

We could have stated that the development and deployment of U.S. missile

defenses are in no way limited by the treaty, its preamble or anything the Russian Government says about them. We could have stated that the United States does not recognize decisions about its missile defense systems as a legitimate and valid reason for the Russian Federation to withdraw from the treaty, as is its right under article XIV. We could have stated affirmatively that the United States will continue to make both qualitative and quantitative improvements to our missile defense systems, regardless of whether the Russian Federation threatens to or actually chooses to withdraw from the new START treaty. We could have said all that and more. Instead, we simply took note of what the Russians had to say and then spoke passively about our intentions, without addressing the heart of the matter.

What does all this mean? What it means is that the Senate needs to fix the problem presented by this clause in the treaty's preamble. One way to do that—the easiest way—is to simply strike the eighth clause from the preamble text. That is what this proposed amendment would do. It will remove any recognition of an interrelationship between offensive nuclear weapons and missile defense, and it would undercut the logical and political foundation of the Russian unilateral statements, as well as the clearly and repeatedly stated Russian position that this treaty imposes a legally binding limitation on U.S. missile defenses.

I see I am joined on the floor by my friend and cosponsor of this amendment, the Senator from Wyoming. Again, I take this opportunity to thank him for taking the lead in offering this amendment within the Committee on Foreign Relations during the markup of the resolution of ratification. I have had the opportunity to travel overseas with the Senator from Wyoming, to Iraq and Afghanistan and Pakistan and many other places. I appreciate his consistent leadership on matters of national security.

I ask unanimous consent that, since it is our amendment, he be recognized next.

The PRESIDING OFFICER (Mr. WARNER). Without objection, it is so ordered.

The Senator from Wyoming is recognized.

Mr. BARRASSO. Mr. President, it is indeed a privilege to join my friend and colleague, the ranking member of the Armed Services Committee. He made mention of the six Christmases he spent away from home. Members of this body and of this Nation know that those Christmases were spent in captivity as a prisoner of war in North Vietnam. I recommend to all of America his book ''Faith of my Fathers.'' I read it on a trip with Senator MCCAIN, heading to Iraq to visit and thank our troops serving several years ago, on Thanksgiving, while we were there with the troops. We were in Baghdad, Kirkuk, and in the Anbar Province. I had a chance to meet, for the first time, a young marine who was Senator MCCAIN's son.

As we traveled across this globe visiting our soldiers, thanking them—in Afghanistan as well—we had been to Georgia, where he was awarded and received the highest national award from the President and the people of Georgia. Senator MCCAIN is recognized and respected worldwide for his knowledge, for his patriotism, and for his bravery. I think it is critical that we listen to him as we talk about this very important treaty.

The amendment he brings is one to strike the language in the preamble that limits our missile defense. It limits our ability as a nation to defend ourselves. I have major concerns about the Russians trying to limit current and future U.S. missile defense capabilities through the New START. I am committed to our national security and the ability of the United States to defend ourselves.

In my opinion, this treaty, signed by our President and by the Russian President on April 8, 2010, places explicit limits on U.S. missile defense.

There should be no place in a treaty with Russia for the United States to limit our ability to defend and protect our Nation.

Specifically, I believe the language in the preamble, the language in the unilateral statement by Russia the day the treaty was signed, and the language in the statements by senior Russian officials regarding missile defense—all of them show Russia intends to weaken the ability of the United States to defend ourselves.

The language in the preamble provides an explicit linkage between strategic nuclear offensive weapons and strategic nuclear defensive weapons.

The preamble implies the right of Russia to withdraw from the treaty based on U.S. missile defense that is beyond ''current strategic'' capabilities. The treaty preamble gives Russia an opportunity to turn their backs on the treaty at the slightest sign of a shift in American defensive strategy. This language is unacceptable and needs to be removed.

Senator MCCAIN read from the Wall Street Journal editorial or op-ed by former Secretary of State Condoleezza Rice. She pointed out several very legitimate concerns about the New START treaty that must be resolved during the ratification process.

I wish to repeat and reiterate two sentences that get to the very heart of this amendment that Senator MCCAIN and I are bringing to you today. She stated:

> . . . the Senate must make absolutely clear that in ratifying this treaty, the U.S. is not reestablishing the Cold War link between offensive forces and missile defenses. New START's preamble is worrying in this regard, as it recognizes the ''interrelationship'' of the two.

Suppose the President of Russia is trying to force the United States to choose between missile defense and the treaty. In that case, I choose missile defense.

The administration continues to claim there is no limit on missile defense and that the administration also claims the preamble is not legally binding. Well, Russia clearly disagrees and believes the opposite to be true. They have made it quite clear they consider the preamble to be legally binding.

Russian Foreign Minister Sergey Lavrov was quoted by Senator MCCAIN on the floor. This very year he stated—and I will reiterate it—that the treaty contained a ''legally binding linkage between strategic offensive and strategic defensive weapons.''

There is a fundamental disagreement between the United States and Russia on this issue. I believe that placing constraints on future U.S. defense capabilities should not be up for debate, let alone placed in a treaty on strategic offensive nuclear weapons.

It is outrageous that this administration would make any concession to Russia on our national security. I think the administration's decision to include this language was a serious mistake. We should not be tying our hands behind our backs and risking the national security of both our Nation as well as our allies.

The United States must always remain in charge of our missile defense—not Russia or any other country.

As our country continues to face threats from around the world, we should not take any action that will hinder our missile defense options. With concerns over countries such as Iran and North Korea, the United States cannot take any chance on language that could weaken our missile defense capabilities. The administration claims the language in the preamble has no legally binding significance. Then there should be no problem in eliminating that language on missile defense in the preamble of the treaty.

That is why I am privileged to join Senator MCCAIN in offering amendment No. 4814, and I ask my colleagues to give great thought and consideration to what the importance of this amendment is and then go on to adopt it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, I have been here and have listened to the two previous speakers. Let me echo and agree with the remarks made by the Senator from Wyoming about the Senator from Arizona. I serve as his second ranking member of the Armed Services Committee, and I have watched his leadership for quite some time now. Also, I have to say the Senator from Wyoming and I are both on Foreign Relations. I have also watched his leadership in this.

I come from a little different perspective than some because I am on both committees. One of the things I have

been concerned about for a long time has been that many people don't have a firm understanding as to the threat we are under in this country. We have heard a lot of different explanations about the intent of article V of the treaty. On the one hand, the Obama administration assures us that there are no limitations on our missile defenses. On the other hand, as has been stated by the two previous speakers, the Russian Foreign Minister states that there are obligations regarding missile defense in the treaty that constitute a legally binding package. I think that was covered well by the senior Senator from Arizona. I will mention three things that pretty well lock in, in my mind, this connection that is there.

The preamble of the treaty recognized the interrelationship between strategic offensive arms and strategic defensive arms, and that interrelationship will become more important as strategic nuclear arms are reduced. That means it will be increased and that current strategic defensive arms do not undermine the viability and effectiveness of the strategic effective arms of the parties.

I quoted yesterday extensively this. The foreign minister of Russia, Sergei Lavrov, said:

> We have not yet agreed on this missile defense issue, and we are trying to clarify how the agreements reached by the two presidents could relate with the actions taken unilaterally by Washington.

He added that the Obama administration had not coordinated its missile defense plans with Russia.

There is a stronger statement made in the very beginning that already has been quoted; that is, that the treaty can operate and be viable only if the United States of America refrains from developing its missile defense capabilities quantitatively or qualitatively.

I wish to also mention that, as far as this link is concerned, I had occasion to be in Turkey not long ago, and I talked to the Ambassador to Turkey, Eric Edelman. Many of us remember he was the Under Secretary of Defense for Policy. A couple months ago, he made a very strong statement:

> New START, unfortunately, introduces limits and obstacles to further development in precisely these means of defending the country. As part of the ratification process, I would hope that, at a minimum, the Senate will express its sense that no further limitations on either Missile Defense or Prompt Global Strike should be considered as part of the future nuclear arms reduction agreements.

He was referring to any other agreements, not just this one.

> Allowing any further such constraints could well prove a major error in long-term strategy because they would trade away areas of U.S. comparative advantage for reductions in Russian strategic forces that would be likely to happen even in the absence of a treaty.

Let me try to break this down. I think an awful lot of people have heard these same words repeated over and over. Yes, certainly there is no one here who can say there is no relationship between any restrictions they are desiring in terms of our ability to have a missile defense system. We know what happened in Poland, and I happened to be over in Afghanistan when the President announced his budget—that was his very first budget. At that time, several of us had been involved with both the Czech Republic, where we were anticipating the building of a radar system, as well as Poland for a ground-based interceptor. One of the things that was very offensive about that was several of us—and I can remember personally the President of the Czech Republic saying to me, in the Czech Republic, are you sure that if we take this risk and we are willing to do this, because we believe it is the right thing to do, that you won't change administrations and come to pull the rug out from under us? And I said, I can certainly give you that assurance. Unfortunately, that is exactly what happened. I think people realize what happened when he gave his military budget. He did away with—he terminated that system.

This is a chart that I think most people agree with. It came from the Congressional Budget Office. As you know, we have over here in Alaska and down in California ground-based interceptors. Originally, there were going to be quite a few more. Then they dropped it down to 44, and recently—under this administration—it went down to 30 ground-based interceptors. So we feel, and I feel—and I think most people agree—that something that is coming in from North Korea and coming across here can be detected, can be shot down, and if missed the first time, you would have another run at it. So I have stated several times we are in pretty good shape for this.

But if you look at the footprint of the coverage, it goes over and barely covers the eastern part of the United States, and of course definitely, over here in Western Europe. If this should happen, I don't think there is anyone—and I have talked to a lot of experts—who believes if for some reason we were not accurate, and not right the first time, there would be another chance to do it. All you have to do is look at this chart and I think you can see that threat is out there; that coverage is out there; that certainly there is a question as to whether we would be able to do it with a ground-based interceptor coming from this direction.

This is Iran over here. The reason we have this on the chart is because it is pretty well accepted, not even classified, that Iran will have the capability of sending a missile over by—the year they use is 2015. If we had the ground-based interceptor in what we called the third site, which would have been here in Poland, then we would have been in a position to have that deployable, initially, in 2012. That date was then slipped to 2015. Well, 2015 happens to be the same date that the Iranians will have this capability, and that is the scary thing.

Let me go ahead and walk through this on this other chart on the timing. According to the phased adaptive approach, which replaced the idea we are going to have a ground-based interceptor in Poland, it says that in phase one, the 2011 timeframe, we would be able to deploy the current and proven missile defense systems available in the next 2 years, including the sea-based AEGIS system, the SM–3 interceptor—that is the Block 1A—which would be down here.

This is something we have now. This chart shows here something that is coming from Tehran over to the United States, let's say to Washington, DC. If they have this capability over here, we can see that we would have to have a capability of the ground-based interceptor in Poland. So here we are right now, the capability that they have in Iran would be portrayed right here. This is their capability. This is our capability to kill something coming over. That is where they are today. This is where they are going to be in 2015. This IRBM capability would be sometime around the year 2012 or 2013.

When we look at what our capability on this side is, we see that phase one, according to the administration, would be the 2011 timeframe. That is a sea-based AEGIS with the SM–3 interceptor, Block 1A.

Phase two would be the 2015 timeframe. That is when we are getting into—they say after appropriate testing—deploying a more capable version of the SM–3 interceptor, Block 1B. This is the Block 1B right here. So this would give us a little greater capability in both the sea- and the land-based, but that would be for a short- or medium-range missile threat.

Then phase three. This is phase three here. This is what they state we would be able to have by 2018. That would be an SM–3 Block 2A. In order to gravitate to—not quite sure I am accurate on this—what would be the capability that we would have with a ground-based interceptor in Poland, it would have to be the SM–3, 2B.

Phase four, that is the SM–3, 2B, which they are estimating might be as early as 2020. But that is ''might be.'' There is no time range or agreement that it would be. That is in the best scenario.

So by eliminating this capability here, that would have been deployable by 2015, and going to something that might be deployed by 2020, when they have the capability, we believe, by 2015, that is the scary thing.

I have often said—and I know it is an oversimplification—when you look at the treaty we are talking about, it is with the wrong people. That is not the threat I see out there. I see North Korea. And by the way, North Korea is going to have this same capability, we believe—well, now, actually for 12,000 kilometers, and 10,000 would reach the United States from Tehran. We know—no one denies—that Tehran and North Korea are trading capabilities and technology.

I only wanted to come to say there is a real threat out there. This is something that is real. It is something we have looked at and we were able to accept at one time, before they took down the siting in Poland. So now we have a treaty that I think, by anyone's interpretation—after you have heard the senior Senator from Arizona and the junior Senator from Arizona, and the Senator from Wyoming and others speak on this—that does certainly, at the very least, have the threat of reducing our capability of defending ourselves.

I only want to point that out, to get into the RECORD how serious the threat is, what the timeframe is and why we should be not even considering a treaty unless we have the language incorporated in amendments—that would be offered I believe by a number of Members on this side, including myself—addressing the missile defense.

I yield the floor.

The PRESIDING OFFICER (Mr. UDALL of New Mexico). The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, if the Senator from Arizona was about to speak on this, I would be happy to let him speak, and then Senator LUGAR and I might respond.

Is the Senator from Arizona able to say, by way of seeing where we are headed here, how long he thinks he might take?

Mr. KYL. Mr. President, I would say to my colleague, maybe 10 minutes is all. I wish to respond to four particular points that have been made here.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KERRY. And possibly Senator GRAHAM had a question, and I thought I would also respond to his question, if he wanted to pursue that.

Mr. KYL. Mr. President, I very strongly support the amendment offered by my colleagues, Senators MCCAIN and BARRASSO. The primary point here is the preamble has created a great deal of confusion and it will create discord between the two parties here—between the Russian Federation and the U.S. Government.

There is a built-in conflict, a big problem. It is a tumor here, and it is going to grow and eventually create a conflict between our two countries that frankly isn't necessary, and that is the purpose for removing this language from the preamble that creates this problem in the first place, that reestablishes the linkage between strategic offensive weapons—which are the subject of the treaty—and missile defenses, which are explicitly not the subject of the treaty.

My colleague Senator MCCAIN pointed out that Secretary Rice had written an op-ed where she said one of the most concerning things—worrisome, I think, was her word—about this treaty is that reestablishment of the linkage which the Bush administration had worked very hard to eliminate. In the Moscow Treaty of 2002 they had eliminated it, making it clear—even though the Russians wanted preamble language or treaty language connecting the two—they were not going to be connected by the United States. We intended to keep our missile defense plans totally separate and apart from any strategic offensive treaty.

The proponents here of this treaty and its language have made some arguments which I think I should respond to briefly. They will probably dwell on some of these again, but I have heard these arguments so far.

One that you hear over and over is that the treaty language is not binding. The simple response to that is: Fine, if it is not binding, then what is the big deal about amending it or simply eliminating this particular provision? Because it is pernicious, it is going to create a lot of problems in the future in terms of disagreements between the two countries—disagreements which are not necessary but which could escalate into a real problem in the relationship between the two countries. So if it is not binding, clearly there shouldn't be a big deal about amending the preamble.

Second, I did hear my colleague from Massachusetts the other day say: Well, these preambles are not that big a deal. They are mostly for domestic consumption. That may be true, but that is a two-way street. We have some domestic consumption here in the United States, too. The American people want the United States to be unconstrained in the development of our missile defenses, and we want to have a little comfort in this treaty that we are not going to be so constrained.

I am well aware of the language in the resolution of ratification, which is simply a statement that says the treaty doesn't limit U.S. missile defenses. That is true, as far as it goes. But, of course, it begs the question of how the Russians interpret the preamble. And they interpret it—as I said 2 days ago, or yesterday, I guess—as a legally binding authority for the Russian Federation to leave the treaty based on its interpretation of extraordinary circumstances, allowing it under article XIV—the withdrawal clause—to withdraw from the treaty if the United States were to deploy missile defenses that qualitatively or quantitatively improve our condition vis-a-vis Russia, which clearly is going to happen if the United States pursues the plans that Secretary Gates has announced.

Of course, the real question is: In view of the Russian objections, will we in fact do that? And that is the pernicious aspect of this preamble. I am afraid, because the Russians have made such a big deal out of this, the Obama administration is backing away from what were announced as our plans for missile developments.

Third, I would point out the fact that this is a problem created by the administration. The Senate gave its advice in the Defense bill last year when we explicitly said don't include any limitations on missile defense. We also added prompt conventional global strike. So this language was negotiated notwithstanding a warning by the Senate that limitations on missile defense could create a problem in our consent to the treaty.

Fourth, the language, as I said, is inconsistent with—that is to say the language in the preamble is inconsistent with announced plans for U.S. missile defense. My colleague Senator KERRY quoted administration officials as saying, well, we briefed the Russians thoroughly on this. No doubt that is true. It also appears to be true the United States has begun to modify our announced intentions with regard to deployment of missile defense.

My colleague Senator INHOFE pointed out that in place of the ground-based interceptors that the Bush administration had planned to deploy in Poland, along with associated radars in the Czech Republic, to complement the ground-based interceptors already in California and Alaska, primarily dealing with the threat coming from east Asia, the administration announced that it would substitute a phased array—or, rather, a phased adaptive approach, which included, at least in its fourth phase, the potential for intercepting ICBMs that could come from Iran to the United States, but also, of course, anywhere else, including Russia.

That would clearly be a qualitative improvement of missile defenses vis-a-vis Russia, which under their interpretation of the preamble would allow them to withdraw from the treaty. We say no, it wouldn't. Oh no, wait, that was the START I treaty where we said no, it wouldn't. In the START I treaty, the unilateral statement of the United States rejected what the then-Soviets said. The language is almost the same.

The Soviets said: We don't want you to build missile defenses, and if you do, that is a ground for withdrawal from the treaty.

At that point, the United States said: No, it is not.

Did we say that this time? No, not a word. As my colleague Senator MCCAIN said, the United States was silent; instead, in effect saying in our unilateral signing statement: You don't have anything to worry about because we are only going to develop missile defenses good against limited or regional threats. In other words, neither the ground-based interceptor we were going to deploy but President Obama pulled back from Europe nor the phased adaptive approach, which, in its final phase, could be effective against a Russian ICBM—apparently neither of those is going to be deployed.

The administration did not make an announcement to that effect, but they did appear to confirm it when they briefed, in Lisbon a couple of weeks ago, the NATO allies and Russia that the first three phases of the phased adaptive approach would be deployed, but the magic language wasn't used on

the fourth. They just said it would be available. Which is it? Are we, in fact, pulling our punches already before the treaty is even ratified because the Russians have objected to it? Isn't this exactly what Secretary Rice warned us about, saying she was worried that we had to, in this treaty, do something about the fact that the Russians had reconnected defense with offense?

That is exactly what the McCain and Barrasso amendment would do. It takes out this language which raises the question, the confusing interrelationship language between missile defense and missile offense, and it strikes the language that says that current U.S. missile defense is not a problem—of course laying open the whole question of whether what we do in the future will be a problem. That is what the McCain-Barrasso amendment would do.

(Mr. WARNER assumed the Chair)

Mr. MCCAIN. Will my colleague yield for a question?

Mr. KYL. I will be happy to yield to my colleague.

Mr. MCCAIN. The amendment, as you know, strikes the language in the preamble. There are some who allege that a letter from the President—a strong letter from the President—would suffice to address this issue. I wonder what the view is of the Senator from Arizona as to how binding and how impactful that would be as opposed to the existing language which exists in the preamble?

Mr. KYL. Mr. President, I thank my colleague for the question because it sets up a perfect reason why this amendment is necessary. The Russians interpret the preamble as the basis for their legal argument that they can withdraw from the treaty if we do what Secretary Gates has said we are going to do. What would a letter from the President potentially say? Either it is going to say we intend to go forward and develop and deploy the missile defenses—which would be seen by the Russians as contrary to their national interests, their supreme national interests, thus further laying a foundation for them to withdraw from the treaty—or the President would confirm the briefing at Lisbon and confirm the U.S. signing statement and say that we don't intend to deploy those, we only intend to deal with limited or regional threats, so the Russians have nothing to worry about. The Senate would be on record in an understanding accompanying the treaty that confirmed all of this. The Senate would at least be on record. But that doesn't commit the President.

I think the only answer to avoid the confusion and to avoid any future President having pressure from the Russians that they are going to withdraw is to just remove the language. That is the beauty by the author of the amendment—it pulls the thorn so the sting no longer can exist.

Mr. GRAHAM. Will the Senator yield? As we play this out, I think there is a lot of bipartisan agreement that the United States needs to develop some form of missile defense. I know Senator KERRY does agree. I am sure the President does. We all live in a very dangerous world. The idea of a missile coming from Iran or North Korea or some other rogue nations is a reality. It is a different topic to talk about neutering a first strike from the Russian Federation.

But the idea that an intercontinental ballistic missile coming to the United States from some rogue nation such as Iran or North Korea—does my colleague believe that is a possibility in the future?

Mr. KYL. Mr. President, I certainly do, and obviously our defense planners worry about that as well.

Mr. GRAHAM. And I believe the President of the United States believes that too.

Mr. KYL. Yes.

Mr. GRAHAM. Here is the problem, and correct me if I am wrong. If we enter into this treaty and the preamble is not clarified or stricken, there could come a point down the road, as we develop these systems to defend against what we all agree is a real national security threat to the United States, what damage would it do to our relationship and what kind of conflict would it create or anxiety in the world at large if the Russians say: We are going to back out of the treaty, because that is the one thing you do not want to happen. You do not want to sign a treaty where you are going to do A, and if you do A, they back out because you put the world in a state of confusion and danger. The idea that all the papers in the world would one day read: Russians back out of strategic arms limitation treaty because of U.S. deployment of missile defense—to me, that is something we need to deal with with certainty because if that day ever came, it would really be an unnerving event.

It is clear to me that the Russians have taken the preamble language to mean that we have limited ourselves. It is clear to me that the President is trying to say we have not limited ourselves. Senator KERRY says it, I say it, you say it. But if the Russians do not agree with that, it would be better not to do the treaty, in my view, than it would be to create an illusion that the world is safer and have that illusion destroyed.

Just think this through. No matter how much you want a treaty, the worst thing that could happen, in my view, is that two major powers with nuclear weapons sometime in the future have a falling out. That is where we are headed if we do not get this right.

To my colleagues, this is a big event. It is a big moment in terms of our relationship with Russia. But you should not sign a treaty when there is a high likelihood, if we do what we think we need to do, that it will put them in a spot of having to withdraw. That has to be settled.

Taking the preamble out—if we took it out and they still signed the treaty, that would make sense. If you leave it confusing, then you are asking yourself for a heartache down the road. Do you agree with that?

Mr. KYL. I certainly do.

I will terminate my conversation here by also adding one other point to my response to my colleague from Arizona about a letter from the President. The problem right now is that such a letter, if it confirmed we were going to move forward with a missile defense system adequate to protect the United States from an ICBM, from more than regional threats, would directly contradict our signing statement. What the President would have to do is say: I hereby reject or repudiate the signing statement that the State Department attached to the treaty when we signed it and state the U.S. position instead as—and then lay out his commitment to deploy a defense system adequate to protect the United States from an ICBM.

Mr. SESSIONS. Will the Senator yield?

Mr. MCCAIN. While the Senator still has the floor, one additional question for my colleague. As we all know, there is nothing more important, probably, that comes before this body than the ratification of treaties. Our Founding Fathers reserved it for the Senate alone.

This treaty is obviously of significant importance—not just the treaty itself but the impact it has around the world. There is certainly something to the allegations that are made, the comments that are made that this could affect U.S.-Russian relations. I think the Senator from South Carolina and you and I—every Member of this body is very aware of the absolute importance of this treaty and for us to make the decision strictly based on the merits or demerits of this treaty.

The reason I ask my colleague this question is that allegations continue to swirl that there is going to be a vote for or against because of another piece of legislation or for other reasons, for other political reasons. I reject that allegation. I wonder if my colleague from Arizona does as well. I know every Member of this body is making a judgment on this treaty on its merits and their view of its merits or demerits and its importance to the future security of this Nation. And I hope, my colleague from Arizona, that I cleared that up, and I hope my colleague from Arizona will too.

Mr. KYL. Mr. President, I could not agree more with my colleague from Arizona. There have been rumors swirling around here for 3 weeks—for example, when the tax legislation was being negotiated—that somehow or other there was some deal in the works to trade the extension of the existing tax rates for support of the START treaty. There was never any kind of a deal like that going on. No, this treaty stands or falls on its own merits.

The other thing I would say, however, is that I have made the point for a long time that one of the impediments to ratifying this treaty or to debating it and considering it in a meaningful way was the intersection of all of the other business that was being put before the Senate, much of it very partisan, and that it was very difficult. My colleague from Arizona was right in the middle of a sentence a while ago when he was interrupted by another colleague to say that we have some intervening business we have to do. That is the problem. If we are going to debate and consider the treaty and be able to do it in the thoughtful and focused way it really deserves, then we should not have all these other items come popping in and out of the Senate. We are on the treaty for 2 days and then going to be off of it for 2 days, back on it again for another day, and meanwhile now we are voting on this and that and the other thing. That is what I was contending would preclude us from ever really getting to the point where we had time to do the treaty and to do it right. I think my predictions were very correct.

Mr. SESSIONS. Will the Senator yield for a question—Senator KYL. You have been a practicing lawyer and a successful one. You negotiated a lot of agreements here in the Senate.

To follow up on what Senator GRAHAM said, it seems to me that at the very heart of this treaty is a very apparent misunderstanding about the meaning and ability of the United States to deploy a missile defense system. When two serious parties enter into negotiations on a matter as serious as nuclear weapons, isn't it a basic part of a good agreement that there are no misunderstandings on important issues?

It seems to me quite clear from repeated Russian statements that they are taking a position very fundamentally contrary to the one the United States should be taking.

Mr. KYL. Mr. President, I am glad to respond to that and summarize this again. Yes. Any lawyer—and we are both lawyers here—knows that if you have an ambiguity in a contract, you are asking for trouble. You are asking for litigation or dispute down the road.

It may not be all that important between two parties or two companies, but when you have two major countries such as Russia and the United States with a lot of tenuous relationships—there are a lot of things on which we agree and some on which we do not agree, very important matters that can arise. If you have a major dispute between the countries, you can affect international relationships not just between the two of us but affecting a whole lot of others in the world as well. You do not want to build in potential conflicts.

There is a double conflict here. The first conflict is between the United States and Russia. The Russians say: If you improve your missile defenses, we get to withdraw from the treaty.

The State Department signing statement says: Don't worry, we are only going to protect against regional or intermediate range threats. But the White House, at the same time, talks about having a letter from the President, or a statement from maybe the Secretary of Defense or somebody, that says: But we are, in fact, going to go forward and develop these kinds of missile defenses, which would, in fact, qualitatively improve our position vis-a-vis Russia.

So not only do we have a disagreement with Russia, we have a disagreement within our own government about our intentions. I do not think the Senate can ratify a treaty with all of this uncertainty out there. We do not know what this country intends to do. There are enough confusing signals that there is not only a potential for a dispute between Russia and the United States but between the Congress and the Obama administration.

Mr. KERRY addressed the Chair.

Mr. MCCAIN. Could I ask unanimous consent to engage in a short colloquy with the——

The PRESIDING OFFICER (Mr. UDALL of New Mexico). The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, if we can, I think we have had about six or seven missiles launched our way. Now I am going to show you what one good defense can do to alter the balance of power; and that is what this is all about: reality.

We have just heard the Senator from Arizona—first of all, I am so happy we are engaged in the debate. I thank my colleagues for the seriousness of the debate. And this is where we get to the heart of this, and I look forward to it.

The Senator from Arizona just engaged in a couple questions—the senior Senator—the junior Senator. I have to get this straight. The junior Senator. I have it straight. The other guy is senior in every way. What can I say.

In that colloquy, they suggested there is some kind of confusion and that we are proceeding down a road where somehow we are going to come into some kind of a confrontation over this issue.

Let me begin by saying, it does not take missile defense or any misunderstanding over it—there is not one; I will come to that next—but it does not take that or any other misinterpretation of the treaty for the Russians to decide to get out of the treaty or for the United States to decide to get out of the treaty.

Senator RISCH from Idaho stood here a few minutes ago talking about all the benefits of modernization that are in this treaty, talking about all the good items about knowing what they are doing.

The choice here is between having that modernization locked in the way we have it in the context of the treaty and locked in with a treaty where we have verification or not having it. That is what we are talking about.

The fact is, there is no confusion. First of all, the Congress has passed a law. It is the law of the land, the Defense Act of 1999:

It is the policy of the United States to deploy as soon as technologically possible an effective national missile defense system capable of defending the territory of the United States against limited ballistic missile attack (whether accidental, unauthorized or deliberate) with funding subject to the annual authorization of appropriations in the annual appropriation of funds for national missile defense.

Unequivocal. No ifs, ands, or buts. The law of the land, which we voted for, is to have a missile defense system; and that is the policy of the United States.

What the Senators have been arguing about is a paragraph that has no legal binding—none whatsoever—no legal binding, standing, whatsoever. It is not part of the four corners of the treaty. It is not part of the treaty. It is a statement. There is no confusion about what that statement means.

Let me read the U.S. unilateral statement, our statement, of April 7, 2010:

The United States missile defense systems are not intended to affect the strategic balance with Russia. The United States missile defense systems would be employed to defend the United States against limited missile launches—

That is, incidentally, language completely in keeping with the National Missile Defense Act of 1999; the same language—

to defend the United States against limited missile launches and to defend its deployed forces, allies—

Allies—

and partners against regional threats.

Some colleagues have come to the floor and questioned whether we are going to be there for our allies. Here is the statement that makes it clear we will be there for our allies.

I read further:

The United States intends to continue improving and deploying its missile defense systems—

Hear that. Please, hear that. That is our signing statement: We intend to continue improving and deploying our missile defense systems—

in order to defend ourselves against limited attack as part of our collaborative approach to strenghthening stability in key regions.

Did the Russians understand what we said? Let me read what the Russians said, if I can find it. As early as April 6, 2010, Russian Foreign Minister Lavrov said:

The present treaty does not deal with missile defense systems but with a reduction of strategic arms.

On August 2, 2010, Foreign Minister Lavrov made this especially clear in an article in a Russian publication. He said:

Dedicated from the outset to the reduction and limitation of strategic offensive arms, the new agreement does not impose restriction on the development of missile defense systems.

A month earlier, Deputy Foreign Minister Ryabkov said at a press conference:

Russia did not seek to limit the development of U.S. missile defenses while drawing up a strategic arms cut treaty. We have never set a task to limit the development of the U.S. ABM system—

including the global one by means of the treaty.

There are no such limitations in this treaty.

So the Russians understand what this treaty means. And so do we.

What is the language that the Senator seeks to strike, and why is it problematic, and why will I oppose it?

I oppose it because since it is not within the four corners of the treaty—but, nevertheless, the preamble to the treaty—it requires us to go back to the Russians and renegotiate. That is a treaty killer. Make no mistake, this becomes a treaty killer.

Can we deal with this issue without a treaty killer amendment? The answer is, yes, Senators, we can deal with it. Oh, incidentally, we have dealt with it. We have already dealt with it. It is in the resolution of ratification.

I want to read very clearly to our colleagues the resolution of ratification—which, incidentally, I say to my colleagues, it is an understanding, which means it has to be communicated to the Russians. This is communicated to the Russians. And here is what it says, regarding missile defense: It is the understanding of the United States that, A, the New START treaty does not impose any limitations on the deployment of missile defenses other than the requirement of paragraph 3 of article V, which is the one that refers to the silos. We talked about that yesterday. We talked about the silos yesterday, and I will come back to it in a minute. The most relevant language is in B.

Incidentally, the silos are all that our understanding refers to as contained within the treaty. In paragraph B, it says, any additional New START treaty limitations on the deployment of missile defenses beyond those contained in paragraph 3—that is the silos, the conversion of silos—would require an amendment to the New START treaty, which may enter into force for the United States only with the advice and consent of the Senate.

So, in other words, if there were to be any other restraint on missile defense, we are making it clear—and this is communicated to the Russians—that it would require the Senate's advice and consent. It has to come back to us. We control what happens.

So the only component of this that has any legal force of law is the silos.

I would say to my colleagues, are the people who came here last night saying we are spending too much money advocating that we build and allow a silo conversion that costs $55 million compared to the silos that the military wants to build that cost $36 million and are brandnew and more effective and more efficient and not confused with the old ICBM silos? What makes more sense?

That is not a limitation on missile defense because we have the right to go out and build any number of fields of silos wherever we think they most effectively work. We can go build those new silos for $20 some million less than the ones they want to preserve the right to conceivably convert and confuse the world about what is in them.

It is pretty clear there is no limitation on defense because we can do what we want with our bombers. We can do what we want with our submarines. And we can do what we want in terms of our interceptor missiles, fired from fields somewhere that we decide to put them. That is not a limitation on defense under any definition whatsoever.

I might add, for those who quoted a couple of comments by a couple of Russians, they are giving greater credibility to those Russians than they are to the Secretary of Defense, the Secretary of State, the President, the Vice President, the Joint Chiefs of Staff, and our strategic command and the head of our Missile Defense Agency, all of whom have said: We are going to go ahead with our plans. We are going to do what we want.

So when you look at the language we already have in the resolution of ratification, which will be communicated to the Russians, there is no limitation on our defense for anything we intend to do, want to do, or makes sense for the United States of America.

That said, let's talk about the language and what it does mean that the Senator's amendment seeks to strike. It says the following:

Recognizing the existence of the interrelationship between strategic offensive arms and strategic defensive arms, that this interrelationship will become more important as strategic nuclear arms are reduced, and that current strategic defensive arms—

i.e., referring to our plans, and what we have, and what we are doing—

do not undermine the viability and effectiveness of the strategic offensive arms of the Parties.

That is all it says. What is that? I tell you what it is. It is a statement of fact. It is a statement of the truth. It is a statement of a truth that was recognized by President George Bush, by Condi Rice, by Jim Baker, and by all of their predecessors, all the way back to Richard Nixon, Henry Kissinger, and others.

What is the statement of fact? Well, here is the statement of fact: Is there a relationship between one person's level of offensive weapons and someone's defensive weapons? I was here with the Senator from Arizona, the senior Senator from Arizona, and we had a long debate in the 1980s over this subject, and he was right. It created a lot of turmoil back and forth over the so-called SDI program, the Strategic Defense Initiative that President Reagan initially proposed. He and I—and Senator KYL may have been here then—were a part of that debate with President Reagan in that period of time. What we learned during that period of time is the reality of this relationship between offense and defense.

I want to take a minute to sort of go through it a little bit because I think it is important to understanding how innocuous these words are and what they sort of recognize in this process.

The policy of our country is now to set out to create a limited defense. I read that. The Strategic Defense Initiative was a much broader, much bigger kind of concept. In fact, in the beginning of that debate, it even contemplated putting weapons up in space and having the ability to shoot down from space, and a whole bunch of other things. We went through a long and tortured debate about all that, which finally sort of exposed this following reality.

Here is the reality: For years, we would each respond to each other as we both built up the numbers of nuclear weapons. We both contemplated first strike capacity and survivability, second strike capacity, and how the numbers of weapons we had affected the judgment of each side about their security. If one side had a whole bunch of great big missiles with big warheads, as the Russians did—the big SS18A and so forth; they had bigger ones than we did, actually—and that motivated us to think about a whole bunch of other ways to defend against it because we wanted them to know if they did try to do a first strike that they couldn't take us out and we had the ability to come back and annihilate them. That was the theory of mutual destruction that kept everybody building weapons until we had more than 10,000 strategic weapons each and tens of thousands more of depth charges, mines, cruise missiles, and various other platforms for tactical nuclear weapons by which we could deliver a nuclear warhead.

Ronald Reagan, to his credit, and Mikhail Gorbachev came to the conclusion at Reykjavik that this was madness; that nobody could afford to spend endless amounts of money just building up these huge offensive weapons so they could overwhelm the other side, or at least have a sufficient level of threat that the other side was scared to do anything.

I listened earlier to, I think it was Senator KYL and others, talking about how we have prevented some wars. I am convinced, frankly, that we probably didn't invade North Vietnam largely because Russia and China were the surrogates behind the war, both with massive nuclear power, so we never quite went that distance because we always knew there was that counterthreat in the background.

Now that certainly was the threat that existed in those 13 days of October when President Kennedy and Kruszchev squared off over Cuba and we came perilously close to a nuclear war.

So what happened is, when President Reagan put out on the table the idea

we were going to go ahead and build a defense, all of a sudden the Russians, who, frankly, couldn't afford it then and can't afford it now, they looked at that defense said: Whoops, what does this do to our calculation about first strike, survivability, second strike, and the nuclear deterrents we have?

If all of a sudden the other side has the ability to shoot down all the weapons or a sufficient number of weapons of the other side in little calculated first strike, second strike, survivability capacity, we have annihilated the theory of deterrence.

If one side gets a qualitative huge advantage and just deploys it—go ahead and deploy it, put it out there. Like these desks here, the front row of desks are our offensive weapons, and the back three rows are all of a sudden a massive defensive system, and all they have is the front row of desks. Boy, are they going to think differently. Suddenly they say: We either develop that system so we can take it out or we develop a big enough offensive system so we can overwhelm all of it. Right back to the arms race we have struggled to get away from.

That is why the idea that we are going to try to take out of here a nonbinding, nonlegal, completely sort of throw-away statement—there is a truism, as Henry Kissinger called it. I know Senator MCCAIN respects Henry Kissinger. I know he talked to him for advice in the course of the Presidential race. He is still one of our wise men of foreign policy and of State craft. He testified to our committee: That statement, you ought to just ignore it, forget about it. It has nothing to do with this treaty, and all it does is state a truism, a fact, a reality.

There is a relationship between offense and defense, and if we can't be—I don't know—capable enough and understand the nuance of this thing well enough to be able to admit the truth about something, given all of the other evidence that is on the table about where we are heading, we would make an enormous mistake to kill the treaty over a nonbinding, near irrelevant piece of text.

Let me just say further I have already pointed out in the resolution of ratification we have obviated the need to have this agreement. We have completely put in there language which I think clarifies. I am happy to work with my colleague further to see if there is some other way to even state more clearly in a declaration or in a condition—we could state it in some way perhaps more clearly, if that satisfies him. But I don't think, given the lack of legal standing, that we are going to kill the treaty over the notion of this.

A couple more things I wish to say about it: Does this assert this link for the first time or reassert a link that has been separated? I have stated the obvious link between offense and defense.

Let me say one other thing. President Reagan, incidentally, had a fascinating idea which a lot of people laughed at initially when he put it out there. He said: Let's share it with the Russians. Now, why would you share it with the Russians? That is President Reagan talking. Because if they know what we are doing, if they know that it is not a guise to get an advantage over them, to somehow be able to surprise them or overwhelm them, but they understand exactly what you are doing, which is precisely what we have done in the course of this European deployment—they know it, they understand it, they see what it is directed at. It is focused on Iran. It is focused on rogue missiles. It is focused on the threat we ought to be focused on. They understand that. Therefore, they don't see it as a reason not to enter into this kind of an agreement.

But if we just unilaterally quietly go off on our own and develop something they think can alter the strategic balance, then their leaders are subject to the same political pressures we are of people who say: Hey, you are not protecting our Nation. You are not thinking about us. The evil United States of America might be trying to blanket us, et cetera.

We both have folks in our political bodies who hate treaties or don't want to deal with us; or they don't want to deal with us and we don't want to deal with them. We understand that. But every President, Republican and Democrat alike, has found that strategically it made sense for the United States of America to, in fact, reach these agreements and to negotiate these agreements. The world has been made safer because of it, and nobody has greater testimony to that than Senator LUGAR, who is passionately for this treaty because, as Jim Baker said, it was START I that created the foundation for the Nunn-Lugar threat reduction program to be able to work and reduce the threat to our country.

I repeat, when Donald Rumsfeld was preparing to negotiate the Moscow Treaty, here is what he said:

> We agreed that it is perfectly appropriate to discuss offensive and defensive capabilities together.

As those negotiations began, President Bush said:

> We will shortly begin intensive consultations on the interrelated subjects of offensive and defensive systems.

He said the two go hand in hand. What is more, seven former heads of the Strategic Command wrote the Senate Foreign Relations Committee this summer saying:

> The relationship between offense and defense is a simple and long accepted reality.

So the Obama administration isn't creating some link. It is acknowledging the reality, and it is acknowledging it—I might add in a paragraph that has no legal standing with respect to the treaty itself, but it is, for whatever benefits or negatives, a sufficient part of that document that it requires under the law to go back to the Russians and do it. But as Secretary Clinton said, it has no legal obligation—obligation—on the United States. It is a statement of fact. So Henry Kissinger said don't worry about the language, and I accept what he is saying.

Finally, the preamble also states the current systems we are planning on don't undermine the viability and effectiveness of either party's strategic arms. It also does not say that the future system we can develop, and we are developing—and the President laid out a clarity about stage 3 and stage 4 deployment with respect to Europe. We can come back to that later if people want to, but the Russians were briefed on why the treaty has no restraint whatsoever in our phased adaptive approach in Europe, specifically including phase 4.

LTG Patrick O'Reilly, Director of the Missile Defense Agency, told the committee—and, once again, folks can choose to believe LTG Patrick O'Reilly or you can believe a newspaper article in Russia and some Russian official. What matters to us is what we decide to do because we can pull out of this treaty any day we want to.

If we have a qualitative change in our system, and we think it is going to defend the United States of America, you don't think any President in the future isn't going to be the first to say, I am deploying that because it protects the country. You don't think that Senators here aren't going to be the first to stand up and say: Mr. President, you have to deploy it because it protects the country. What is more, we can't reduce below the 1,350 warhead level, folks, without the Senate agreeing to do it.

So we are not on some cascading downward trend. We are in a position where our defense and intelligence community says we need this treaty because we want to get back to the ground. We want to know what Russia is doing, and we would like to catch up to what they are up to.

LTG Patrick O'Reilly said:

> I believe the Russians understand what the plan is and that those plans for development are not limited by this treaty.

That is a quote.

He also explained what he told them about it, and I quote again:

> Throughout these conversations, it was very clear to me through their questions and responses that they fully understood my presentation; i.e., fourth stage and our commitment to proceed forward.

Now, there is nothing in this treaty that changes our course on missile defense. Bob Gates reminded us of that. And, once again, do you believe Bob Gates or do you want to believe the Russian press? Is it relevant anyway? Because if Bob Gates says we are going to do it and the President says we are going to do it and the Congress says we are going to do it, and we are doing it, it doesn't matter what they say because if they are going to pull out, they will pull out. Until then, we have the advantage of the inspections and the cooperation that comes with this treaty.

Here is what Bob Gates said:

The Russians have always tried to resist our ability to do missile defense, but this treaty doesn't accomplish that for them.

He said:

We have a comprehensive missile defense program and we are going forward with all of it.

So the administration has made clear to the Russians that we are going ahead with missile defense. We don't need this amendment. It doesn't change Russia's withdrawal rights. It doesn't change what we have already made clear, notwithstanding it does have that minor impact of killing the treaty. So I will oppose it. Much as the Duma's action on START II killed that treaty, it never came into force because of our pulling out of the ABM Treaty. I don't think this amendment will advantage the position of our country.

I know Senator LUGAR wishes to speak, but others are on the Senate floor already.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, in deference to Senator LUGAR, I will be very brief. Also, Senator SESSIONS is here who would like to speak, as well as Senator BARRASSO again, so I will be very brief. I believe the Senator from Illinois is also here.

Mr. KERRY. Mr. President, I wonder if I could ask my colleague—we are at a quarter to 5 now. I wanted to get a sense, because colleagues are asking me, on our side at least, where we stand. Would it be possible to get a time agreement on this?

Mr. MCCAIN. I regret we can't at this time. This is one of the seminal aspects of whether the United States is going to ratify this treaty. To have a time agreement, after all of the fooling around we have been doing on the DREAM Act, on New York City, on all of these other issues that have taken up our time, we will not have a time agreement from this side until all Members on this side have had an opportunity to express their views on this issue.

Mr. KERRY. Mr. President, if I may, I was simply asking a question. Before I yield the floor, let me just say I am not trying to reduce the level of debate. I am just trying to get a sense of how much time we might need. I wish for no Senator to be cut off. It seems to me we ought to have a sense of how many Senators want to speak, of how long they need, and the normal procedure in the Senate is to try to establish that so we can pin down where we are heading.

All I am trying to figure out—let me ask the Senator two questions. No. 1, I would ask the Senator, does he think that sometime in the near term he could have a sense of how many Senators are going to speak and we could try to pin that down. I would ask them that, Mr. President, without losing my right to the floor.

Mr. MCCAIN. Mr. President, was the floor yielded before the Senator spoke?

The PRESIDING OFFICER. It is the understanding of the Chair that the Senator from Massachusetts has the floor.

Mr. MCCAIN. I thank the Chair. Under any circumstances, I wanted to clarify that. I am glad to answer any question my friend from Massachusetts has. I cannot tell him at this time.

What the Senator from Massachusetts has done is sparked a strong response from this side. So this is not a situation where we come down and everybody just gives a statement. I had not planned on talking again, until I heard the comment of the Senator from Massachusetts. I am sure the Senator from Arizona, Mr. KYL, and the Senator from Wyoming feel the same way. I will try to get a list of speakers. I certainly cannot tell the Senator from Massachusetts when we will be done. Obviously, in the spirit of debate, I have to challenge the assertions of the Senator from Massachusetts because that is what I think this ratification process should be all about. I am sure my colleague understands that.

I want to emphasize that I am not trying to drag this out. I want to make sure, because this is one of the most important parts of this debate—I don't want it to be short-circuited. I promise the Senator from Massachusetts that I am not trying to drag this out.

Mr. KERRY. Mr. President, I completely understand and accept the Senator's desire to have this robust debate, and I welcome it. I agree that some of these issues are contentious and there are different points of view. This is exactly what we ought to be debating. I am in favor of that.

Mr. MCCAIN. I will try to get a limit on the number of speakers.

Mr. KERRY. I appreciate that. I am trying to help colleagues on both sides of the aisle who are trying to figure out where we are headed.

Secondly, I understand the powerful feelings on the other side about this particular issue. I thought we had addressed it. We certainly tried to. In fact, we took an amendment—where is Senator RISCH's amendment? Was it Senator DEMINT's?

We accepted an amendment to the resolution of ratification from, I think, Senator DEMINT. I have it right here—no. Here it is. It is on missile defense. This was very important because Senator RISCH—as he came to the floor today—had talked about this entire way in which we deal with it. No, that's not it. This is a declaration—if I can say to my colleague from Arizona, Senator RISCH—DeMint proposed this amendment, and we accepted it.

It says:

It is the sense of the Senate: A paramount obligation of the United States Government is to provide for the defense of the American people, deployed members of the U.S. Armed Forces, and United States allies against nuclear attacks to the best of its ability. Policies based on mutual assured destruction, or intentional vulnerability, can be contrary to the safety and security of both countries. The United States and the Russian Federation share a common interest in moving cooperatively as soon as possible away from a strategic relationship based on mutually assured destruction. In a world where biological, chemical, and nuclear weapons, and the means to deliver them, are proliferating, strategic stability can be enhanced by strategic defensive measures. Accordingly, the United States is and will remain free to reduce their vulnerability to attack by constructing a layered missile defense system capable of countering missiles of all ranges. The United States will welcome steps by the Russian Federation also to adopt a fundamental strategic posture.

That is very powerful language, in my judgment. I am very prepared, if Senator MCCAIN will work with me, to try to find a way that doesn't kill the treaty but that puts in the language that embraces the thoughts that we are trying to convey with respect to our rights.

Mr. MCCAIN. Mr. President, I will be brief. I know Senator LUGAR is waiting, as are two or three of my colleagues. I appreciate what the Senator from Massachusetts just said because it is the best argument for this amendment I have seen.

It says the preamble is nothing, meaningless, doesn't have any effect. If that is the case, then let's get rid of it. Fine, let's throw it away. In fact, he called it a throwaway. Isn't that true, I ask the Senator from Wyoming?

Mr. BARRASSO. Yes, Mr. President. That is exactly what I see here. The senior Senator from Massachusetts said—and this is a transcript from a few minutes ago. He said that the idea that we are going to try to take out of here is nonbinding, nonlegal, completely a throwaway statement.

Mr. MCCAIN. Then what could be the problem? Let's get rid of it.

The second point, of course, the Senator from Massachusetts gave various quotes from Russian leaders about the whole aspect of missile defense. Yet, again, on December 1, 16 days ago, Vladimir Putin, speaking on ''Larry King Live''—I am not making this up—said this:

I want you and all the American people to know this. . . .It's you who are planning to mount missiles at the vicinity of our borders, of our territory. We've been told that you'll do it in order to secure against the, let's say, Iranian threat. But such a threat as of now does not exist. Now if the rudders—

Whatever that means—

and the counter missiles will be deployed in the year 2012 along our borders, or 2015, they will work against our nuclear potential there, our nuclear arsenal. And certainly that worries us. And we are obliged to take some actions in response.

That was 16 days ago from the Prime Minister and, we know, the most powerful man in Russia. ''We are obliged to take some actions in response.''

Of course, one day earlier, President Medvedev said:

Either we reach an agreement on missile defense and create a full-fledged cooperation mechanism, or if we can't come to a constructive agreement, we will see another escalation of the arms race. We will have to

make a decision to deploy new strike systems.

That was 17 days ago. Who are we to believe? What are we to believe? Well, we can clarify it. Take that out of the preamble, and we can clarify that. There are other statements—one by the Russian Foreign Minister Lavrov—and on and on. I don't think there is any doubt.

Also, there are recent press reports saying that ''Russia develops new indestructable ICBM to replace Satan.'' That is on 16 December. There is another news report that says that ''Russia has moved Russian missiles; fuels U.S. worries.'' That is the Wall Street Journal.

> U.S. believes Russia has moved short-range tactical nuclear warheads to facilities near North Atlantic Treaty Organization allies as recently as this spring, adding to questions in Congress about Russian compliance with longstanding pledges ahead of a possible vote on a new arms control treaty.

One of the reasons this is very important, I argue, is that, back in 1991, the Russians agreed they would not move any of their tactical nuclear weapons. That was a commitment they made.

So, again, I am befuddled by the reluctance of the Senator from Massachusetts to just simply remove this preamble.

Finally, I will mention the difference between this administration and START I on this same issue. In fact, if you look at the statement the United States made, it is interesting. It says:

> The United States intends to continue improving and deploying its missile defense systems in order to defend itself against limited attack—

That word ''limited'' is interesting—

> and as part of our collaborative approach to strengthening stability in the key regions.

Now, contrast that with what the United States said at the time of the ratification of START I. The United States said:

> While the United States cannot circumscribe the Soviet withdrawal from the START Treaty, if the Soviet Union believes its supreme interests are jeopardized, the full exercise by the United States of its legal rights under the ABM treaty, as we have discussed with the Soviet Union in the past, would not constitute a basis for such withdrawal. The United States will be signing the START Treaty and submitting it to the United States Senate for advice and consent with this view. In addition, the provisions for withdrawal from the START Treaty based on supreme national interests clearly envision that such withdrawal can only be justified by extraordinary events that have jeopardized the parties' supreme interests. The Soviet statements on a future hypothetical that a U.S. withdrawal from the ABM treaty could create such conditions are without legal or military foundation.

I ask my colleagues to look at the differences between the two comments. Finally, I emphasize, again, there is clearly room for some disagreement as to what the Russian intentions are. Should it not be clarified? Should we not have it clear and ask the Russians? Couldn't we ask them tonight and say: What are your intentions regarding missile defense systems? There is contradiction.

On ''Larry King Live,'' your Prime Minister made a strong statement about it, so has the Foreign Minister and others. We have constant communications with the Russians. We can clarify some of this if we just ask the Russians for a statement of clarification.

I hope the Senator from Massachusetts might do that. That also would not change the fact that, given the contradictions in the Russian statements, we should get rid of that meaningless, throwaway provision that this amendment requires.

I thank my colleagues and yield to the Senator from Indiana.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. LUGAR. Mr. President, two major arguments have been made against the New START Treaty. They revolve around a missile defense issue that we have been discussing, and verification issues. There may be others, but those two have some importance.

The amendment before us now is to strike a part of the preamble. Let me just say, first of all—and I will conclude with this argument after a reasonable discussion of it. If, in fact, we were to adopt the amendment that is before us, we will kill the treaty. I think Members need to understand that fundamental proposition. We will kill the treaty. Maybe many colleagues did not like the treaty to begin with. As a matter of fact, maybe they have not liked any treaties with the Russians.

There may be colleagues who, as a matter of fact, would not be opposed to a treaty with the Russians on occasion, but not at this particular time and even have stressed that other foreign policy issues are more important and that this is almost a diversion of our attention.

I am one who believes the treaty is important, and I think fundamentally we have to understand this amendment kills the treaty. As we vote yea or nay, we are deciding whether we are going to, in fact, continue to have a debate on this treaty.

Some critics of the New START treaty have argued that it impedes U.S. missile defense plans. Nothing in the treaty changes the bottom line that we control our own missile defense destiny, not Russia. Defense Secretary Gates, Admiral Mullen, and General Patrick O'Reilly, who is in charge of our missile defense programs, have all testified that the treaty does nothing to impede our missile defense plans. The Resolution of Ratification has explicitly reemphasized this in multiple ways.

Some commentators have expressed concern that the treaty's preamble notes the interrelationship between strategic offense and strategic defense. But preambular language does not permit rights nor impose obligations, and it cannot be used to create an obligation under the treaty. The text in question is stating a truism of strategic planning that an interrelationship exists between strategic offense and strategic defense. As a matter of fact, it always has existed and does exist. We have argued that among ourselves in terms of our own defense, and so have the Russians, as well, in our colloquy with them.

Critics have also worried that the treaty's prohibition on converting ICBM and SLBM launchers to defensive missile silos reduces our missile defense options. But as we have heard, General O'Reilly has stated flatly it would not be in our own interest to pursue such conversions because converting a silo costs an estimated $19 million more than building a modern, tailormade new one.

We would say simply that the Bush administration converted the five ICBM test silos at Vandenberg for missile defense interceptors, and these have been grandfathered under the New START treaty. But beyond this, every single program advocated during the Bush and Obama administrations has involved construction of new silos dedicated to defense on land, exactly what the New START treaty permits. General O'Reilly has said a U.S. embrace of silo conversions would be ''a tragic setback,'' for our missile defense program.

Addressing whether there would be utility in converting any existing SLBM launch tube to a launcher of defensive missiles, GEN Kevin Chilton, commander of U.S. Strategic Command, says:

> The missile tubes that we have are valuable in the sense that they provide the strategic deterrent. I would not want to trade an SLBM, and how powerful it is and its ability to deter, for a single missile defense interceptor.

Essentially, our military commanders are saying that converting silos to missile defense purposes would never make sense for our efforts to build the best missile defense possible.

Another argument concerning missile defense centers on Russia's unilateral statement upon signature of New START, which expressed its rights to withdraw from the treaty if there is an expansion of U.S. missile defense programs. Unilateral statements are routine to arms control treaties and do not alter the legal rights and obligations of the parties to the treaty. Indeed, Moscow issued a similar statement concerning the START I treaty, implying that its obligations were conditioned upon U.S. compliance with the ABM Treaty. Yet Russia did not, in fact, withdraw from START I when the United States did withdraw from the ABM Treaty in 2001, nor did it withdraw when we subsequently deployed missile defense interceptors in California and Alaska, nor did it withdraw when we announced plans for missile defenses in Poland and the Czech Republic.

Russia's unilateral statement does nothing to contribute to its right to

withdraw from the treaty. That right, which we also possess, is standard in all recent arms control treaties and most treaties considered throughout U.S. history. Some Senators have not fully understood this history, at least in my judgment, when dwelling on the ramifications of deploying the final phases of the European phased adaptive approach to missile defense.

In particular, some Senators appear to argue that phase four would involve the use of the Standard Missile-3 Block IIB, a missile of two stages, which Senators presume could have the capability to threaten Russian missiles. Consequently, they worry Russia may threaten withdrawal over deployment of this defensive missile which is being developed to meet the threat of a more capable Iranian missile. They claim such a threat might delay or inhibit the new defensive missile's deployment.

In fact, we have learned, in scores of hearings and classified briefings, that our military went to great lengths to show that no missile interceptor under deployment could neutralize Russian strategic forces. Lieutenant General O'Reilly stated in June, before our Foreign Relations Committee:

> I have briefed Russian officials in Moscow. I went through the details of all four phases of the Phased Adaptive Approach, especially Phase Four. And while the missiles that we have selected as interceptors in Phase Four provide a very effective defense for a regional-type threat, they are not of the size or have the long range to be able to reach Russian strategic missile fields. And it is a very verifiable property of these missiles, given their size and the Russian expertise and understanding what the missiles' capabilities will be, that they could not reach their strategic fields.

No witness has argued that the United States, under this or any future administration that will come to power under the duration of the treaty, will be capable of deploying missile defenses of the kind that could reliably, economically, and persuasively defeat massive, strategic missile attacks on the United States of America wherein thousands of warheads were rained down upon us. This is a technical reality and not a political choice.

The resolution of ratification approved by the Foreign Relations Committee reaffirms the New START treaty will in no way inhibit other missile defenses. It contains an understanding to be included in the instrument of ratification that the New START treaty imposes no limitations on the deployment of U.S. missile defenses other than the requirement to refrain from converting offensive missile launchers. It also states that Russia's April 2010 unilateral statement on missile defense does not impose any legal obligations on the United States and that any further limitations would require treaty amendment subject to Senate advice and consent.

Consistent with the Missile Defense Act of 1999, it also declares it is U.S. policy to deploy an effective national missile defense system as soon as technologically possible and that it is the paramount obligation of the United States to defend its people, its Armed Forces, and allies against nuclear attack, to the best of our ability.

The committee's resolution also states the Senate expects the executive branch to provide regular briefings on missile defense issues related to the treaty and on United States-Russian missile defense dialogue and cooperation. The resolution also calls for briefings before and after each meeting of the Bilateral Consultive Commission. The executive branch has committed to holding these briefings.

In a revealing moment before the Senate Foreign Relations Committee hearings on the treaty, Secretary Gates testified:

> The Russians have hated missile defense ever since the strategic arms talks began, in 1969 . . . because we can afford it and they can't. And we're going to be able to build a good one . . . and they probably aren't. And they don't want to devote the resources to it, so they try and stop us from doing it. . . . This treaty doesn't accomplish that for them. There are no limits on us.

Again, that was a quote from Secretary Gates, and I would paraphrase the Secretary's blunt comments by saying simply that our negotiators won on missile defense. If, indeed, a Russian objective in this treaty was to limit U.S. Missile defense, the Russians failed, as the Defense Secretary asserts. Does anyone believe that Russian negotiating ambitions were fulfilled by nonbinding preamble language on the relationship between offense and defensive capabilities or by a unilateral Russian statement with no legal force or by a prohibition on converting silos, which cost more than building new ones? These are toothless, figleaf provisions that do nothing to constrain us.

Moreover, as outlined, our resolution of ratification states explicitly, in multiple ways, we have no intention of being constrained. Our government is involved heavily in missile defense. Strong bipartisan majorities in Congress favor pursuing current missile defense plans. There is no reason to assume this will change.

What the Russians are left with on missile defense is unrealized ambitions. At the end of any treaty negotiation between any two countries there are always unrelated ambitions left on the table by both sides. This has been true throughout diplomatic history. The Russians might want all sorts of things from us, but that does not mean they are going to get them.

If we constrain ourselves from signing a treaty that is in our own interest on the basis of unrealized Russian ambitions, we are showing no confidence in the ability of our own democracy to make critical decisions in the future. We would be saying we have to live with the diminished security environment that would result from the end of START inspections because we fear the Russians might try in the future to limit missile defense.

Let us be absolutely clear. The President of the United States, the Congress, and the executive branch agencies, on behalf of the American people, control our destiny on missile defense. The Russians can continue to argue and maneuver all they want on this issue, but there is nothing in the treaty that says we have to pay any attention to them.

Therefore, I would say, first and foremost, fundamentally, if we amend the treaty text, the treaty is gone.

That does relate to a second argument we may have later on with regard to verification. We have all pointed out that for over a year, since December 5, 2009, we have not had verification in Russia. Many of us feel that is very important. There may be arguments on what the treaty provides as verification, but if there is no treaty and there is no verification, those arguments are not particularly germane today.

Instead, the best course for the United States is to make clear we will pursue our missile defense plans, whether Russia decides now or in the future not to be a party to the New START treaty, and that Russian threats to withdraw from the treaty will, accordingly, have no impact on our missile defense plans. Just as we were not deterred from withdrawing from the ABM Treaty by Russian threats that such a withdrawal might prompt them to pull out of START I, Russia's threats regarding New START should not deter us from pursuing our missile defense plans.

The ratification of the New START treaty recommits the United States to this course. It contains an understanding to be included in the instrument of ratification that the New START treaty imposes no limitations on deployment of U.S. missile defenses, other than the requirement to refrain from converting the offensive missile launchers. It also states that Russia's April 2010 unilateral statement on missile defense does not impose any legal obligations on the United States, and any further limitations would require treaty amendment subject to the Senate's advice and consent.

Consistent with the Missile Defense Act of 1999, it also declares it is U.S. policy to deploy an effective national missile defense system as soon as technologically possible, and it is a paramount obligation of the United States to defend its people, its Armed Forces, and its allies against nuclear attack to the best of our ability.

For all these reasons, I urge Senators to reject the amendment before us because it would kill the treaty, it would kill the opportunities the treaty provides for us, and the reasons for doing so, it seems to me—those that have been stated—are very inadequate.

I thank the Chair.

The PRESIDING OFFICER (Mr. PRYOR). The Senator from Massachusetts.

Mr. KERRY. Mr. President, I am not going to keep the floor——

Mr. SESSIONS. I have been here for a couple hours.

Mr. KERRY. Mr. President, I am about to completely cover for the Senator. Senator KYL has been working with me. We want to make sure, as I said, everybody gets a chance, so I am just trying to lock it in.

This is coming from me from Senator KYL. I ask unanimous consent that Senator SESSIONS be given 30 minutes; that following Senator SESSIONS, Senator KIRK have 15 minutes; that following him, Senator DODD have 20 minutes; that following him, Senator GRAHAM of South Carolina have 10 minutes; and then Senator DEMINT from South Carolina have 15 minutes.

Mr. MCCAIN. Reserving the right to object, I think the way I have it is that following Senator SESSIONS is Senator GRAHAM and then Senators KIRK and DEMINT. Senator KYL will also want time that is not specified at this time, and I would want time. But could I say to my friend, there will be no more—by unanimous consent there will be no more speakers from this side.

Mr. KERRY. Mr. President, I appreciate that very much.

Mr. SESSIONS. Reserving the right to object, I would not be able to finish my full remarks on this tonight. I mean, I could later tonight, at the end of that, in my 30 minutes, or tomorrow.

Mr. KERRY. Mr. President, could I ask, is the Senator from Alabama saying he can't finish his floor remarks with respect to the treaty or to this amendment?

Mr. SESSIONS. The amendment, and I would ask to be added on at the end or in the morning.

Mr. KERRY. Mr. President, I think we would like, if we could, to wrap up the debate this evening. I ask unanimous consent as it follows, then, that at the end of the list of speakers on the Republican side, Senator SESSIONS be granted the floor—for what period of time would the Senator like?

Mr. SESSIONS. Thirty minutes.

Mr. KERRY. Thirty minutes at the end of that, so the Senator will have—Senator SESSIONS will have two sessions, and we will come back after that.

Mr. President, I ask unanimous consent that I reserve 30 minutes after Senator SESSIONS, and at that time, could I ask—at that time, could we agree at that point to ask for the time for a vote perhaps tomorrow?

Mr. MCCAIN. Reserving the right to object, the understanding, I ask my friend from Massachusetts, is that Senator KYL can be recognized at certain points after this, without a particular time agreement, if that is agreeable?

The PRESIDING OFFICER. Will the Senator from Arizona restate the sequence of speakers on the Republican side, please.

Mr. MCCAIN. Senator SESSIONS with 30 minutes; GRAHAM for 10 minutes; KIRK, 15; DEMINT, 15; KYL and myself, unspecified time; and Senator SESSIONS an additional 30 minutes when it is appropriate, understanding that there will be speakers from the other side intervening in this sequence.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, the other speaker on our side will be Senator DODD. As stated, he will come after Senator GRAHAM. I am reserving time, such time as I will use, either after Senator KYL or Senator MCCAIN.

I ask unanimous consent that be the end of the speakers on this amendment, and we will agree to set a time for a vote according to the leadership.

The PRESIDING OFFICER. Is there objection?

Mr. KYL. Mr. President, I object. What we were trying to do is simply indicate an order so people would know this evening roughly when they would be permitted to speak, what the order would be, how late we would go, and so on. It is my understanding that we will not be on the treaty tomorrow but, rather, that we will be on two other matters the leader has filed cloture on and that we would have some debate preceding the two cloture votes. Therefore, we would not be on the treaty tomorrow. When we go back on the treaty, obviously there may be something that needs to be set on the amendment before we vote.

Mr. KERRY. I really would like to lock it in, if I can, and I think this is a good effort and we can close it this way. Could we agree that this list will be the final list of speakers on this amendment, with the allowance for 5 minutes on each side prior to a vote?

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. I cannot agree with that. I simply don't know who else might want to speak to it. With the amount of people speaking to this tonight and the fact that presumably we will come back on this Sunday or Monday, I would not anticipate personally—though it is not my amendment—that there would be a tremendous amount of debate left and it would not be our intention to hold off a vote; however, there may be people who want to speak to it, and I may want to have something.

Mr. President, might I also say that Senator THUNE would like to have 15 minutes tonight.

I think that is the best way. Then perhaps we can talk offline.

Mr. KERRY. I think that is fine. We are moving in the right direction. I appreciate the effort of the Senator. We will get there.

Is the Chair clear on the names? Senator SESSIONS for 30 minutes; we request Senator GRAHAM for 10 minutes following that; Senator DODD for 20 minutes following that; Senator KIRK for 15 minutes following that; Senator DEMINT for 10 minutes—15 minutes; Senator THUNE for 15 minutes; and then Senator KYL and Senator MCCAIN for such time as they will use; and Senator KERRY for such time as I choose to use.

The PRESIDING OFFICER. Is there objection?

Mr. MCCAIN. And Senator SESSIONS for an additional——

Mr. KERRY. Senator SESSIONS for an additional 30 minutes at such time between Senator KYL and Senator MCCAIN as they would allow.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Alabama.

Mr. SESSIONS. Mr. President, I just want to say a couple of things. First, the treaty is important, but its——

Mr. KERRY. Mr. President, I apologize, and I apologize to the Senator. The Senator from New York has informed me that he would like 5 minutes somewhere in there. I ask, according to the unanimous consent agreement, that he be permitted to speak after Senator KIRK. Actually, could he be permitted to speak for 5 minutes after Senator SESSIONS?

I thank the Chair.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Alabama.

Mr. SESSIONS. Mr. President, a treaty of this nature is very important. I have served as chairman and ranking member of the Armed Services Strategic Forces Subcommittee, which deals with missile defense and nuclear issues. I think we dealt with it in more detail involving the budgets and those kinds of things than the Foreign Relations Committee that is handling this bill.

I would say it is very important to know how we got to where we are. I think it is very important that we understand the significance of what is happening and the meaning of it. It is going to take some time to do that. A lot of things that have been said this afternoon I don't think fully capture what has happened, and I believe it ought to be corrected.

I would say with regard to missile defense that I have been involved in that for 14 years since I have been in the Senate on the Strategic Forces Subcommittee of Armed Services. I think I know something about it. And I have to disagree with my distinguished colleague, one of the most distinguished Members of this Senate, that the Russians did not win on missile defense. They have already won and have attempted to codify it in this treaty. It is a very serious matter. I feel that we are going to have to take some time to go through it and understand how we got where we are.

I know it is late on this night, but it is not because I want to be here; it is because this Senate, under the majority, has not been able to move appropriations bills or pass other legislation, and it has all now been jammed up after this election into this lameduck Congress. Now we are not going to be rushed. We should not be rushed.

I would add one more thing. I cannot understand and I am deeply disappointed that the Russians have been

so intransigent, hardheaded about this treaty and other relations with the United States. We had every reason to believe and expect and hope we would be moving forward with Russia today in a far more close and harmonious relationship. I cannot understand why, for example, the Russians are negotiating a treaty that gives less inspection capability to the United States than they had before. If they have nothing to hide, what is going on here? I am concerned about this.

Finally, as to whether the treaty is essential, I would note that we don't have a nuclear treaty with the UK—England. We don't have one with France. We don't have one with China. We don't have one with India. We don't have one with Pakistan. We don't have to have this treaty. If it is not a good treaty, we ought not to sign it.

Mr. Feith negotiated the START treaty with the Russians. He told them no on issue after issue, these very same issues, as he recently wrote in the Wall Street Journal in an op-ed, and eventually they accepted the American position. The very issues they raised that Mr. Feith and President Bush rejected have been accepted as a part of this treaty.

Let's talk about a few things that happened. In July of 2006, North Korea tested a ballistic missile, leading many, including myself, to the conclusion that the long-range missile threat against the United States from a rogue threat was imminent. This was constantly talked about on the floor of the Senate, in committee, and, in particular, our subcommittee. A lot of people do not know. We try to be responsive to threats.

What is the threat? The North Korean threat not only increased in the intervening years, but it is also compounded by the reality that Iran has also developed a ballistic missile capability, leading to a recent intelligence estimate that stated that ''with sufficient foreign assistance, Iran could probably develop and test an intercontinental ballistic missile capable of reaching the United States by 2015.'' By 2015—that is our intelligence estimate, and we generally rely on what they tell us about what they estimate.

So how is this national security imperative—an agreement that we are dealing with today and one that would reduce our nuclear arsenal while our enemies are building theirs up—helpful to us?

The truth is, fundamentally, we spent weeks on this. The administration had its top people working on this treaty with Russia that the Russians negotiated so vociferously because they really weren't concerned about it, frankly, whether it was signed or not, and they knew we wanted it worse than they did. But why have we not been discussing what is really serious; that is, Iran and North Korea and their development of nuclear weapons, how they threaten their neighbors, how North Korea has attacked South Korea, our ally, with which we are bound in a mutual defense treaty, attacked them and killed civilians and military personnel just a few weeks ago. These are the critical issues this Nation ought to be dealing with, and we ought not to at this time be weakening our national missile defense system.

In London, in 2006, I made a talk in which I said I believe we reached a bipartisan consensus on going forward with a missile defense system for the United States and that we were going to plant a missile defense system in Poland, with radar in the Czech Republic, and that the budget had just been approved under the Democratic majority, and I thought that represented a bipartisan agreement to move forward with ground-based interceptors in Europe. And it could have been done. It was expected originally to be capable of being deployed by 2013. Because Congress delayed and funding was not always there, it was set to be deployed by 2016. Remember, the Iranians are capable of hitting the United States, according to the intelligence estimate, by 2015, and we were trying to be sure we met that. We were going to use basically the same system that is utilized in Alaska, utilized in California, that we have in the ground right now to be deployed in Europe.

Many leftists in the United States and some in Europe opposed that, and it was somewhat controversial. I never understood why. The Russians did not like it. They did not like it, but the Czechs and the Poles stood up, they faced down the people who objected, and they were supportive of it. We were planning to go forward when President Bush left office. That is the basic status.

It was in the summer of 2008 that the Bush administration actually signed agreements with Poland and the Czech Republic to install the 10 ground-based interceptors and a fixed radar base in the Czech Republic. At the same time, Candidate Obama said he would support deployment of ballistic missiles that were ''operationally effective.''

The day after the U.S. Presidential election, November 5, 2008, President Medvedev in Russia stated that Russia would deploy short-range missiles to the region of Kaliningrad, Leningrad, which borders Poland, if the United States proceeded with their site. It was a threat to the new administration. In typical Russian fashion—issue a threat and test the new President.

Then on January 15, 2009, at the nomination hearing for Under Secretary of Defense for Policy Michele Flournoy, she was asked this by Chairman LEVIN:

> On the European missile defense issue, do you believe that it would be important to review the proposed European missile defense deployment in the broader security context of Europe, including our relations with Russia, the Middle East, and to consider those deployments or that deployment as part of a larger consideration of ways in which to enhance ours and Europeans' security?

Ms. Flournoy replied:

> Yes, I do, sir. I think it is an important, candid issue for the upcoming quadrennial defense review.

That is our internal defense review. What was that question? That question suggested we might not should go forward without Russia and we should consider how it could affect the relationship.

Within 2 weeks of that hearing, in late January of 2009, but not long after the President had taken office, the Russian media reported that Moscow had cancelled the deployment of these missiles in the Kaliningrad area because the Obama administration was not ''pushing ahead'' with the third site.

Now, that is pretty stunning. The third site has been a part of our strategic policy for years. The President and Secretary of State under President Bush said they had worked hard to negotiate with the Poles and the Czechs, had gotten their agreement. They had publicly stood up, their leaders had, to defend this third site. Here, the President is waffling right off the bat in the face of Russian pressure.

On February 7, at the annual Wehrkunde Conference, Vice President BIDEN stated:

> We will continue to develop missile defenses to counter growing Iranian capabilities. We will do so in consultation with our NATO allies and Russia.

Well, Russia did not want this. They had never wanted this. But President Bush did not let it stop him. President Obama's statement was followed by an announcement from Deputy Secretary of Defense, William Lynn, and Vice Chairman of the Joint Chiefs, James Cartwright, in 2009, in the summer, that the administration was reviewing its defense options in Europe.

Finally, on September 17, 2009, President Obama delivered a bombshell announcement, stunning and surprising and embarrassing our Czech and Polish allies, and announced his decision to cancel the European third site, saying: This new approach ''will provide capabilities sooner, build on proven systems and offer greater defenses against the threat of missile attack than the 2007 European missile defense program.''

So I have been involved. Let me parenthetically say this new system he talks about would be better was not even on the drawing board. There was no development planned for this new system, the SM–3 Block 2B. It was not on the drawing board. They conjured it up out of thin air and said: We will have it developed by 2020, when we had a two-stage, ground-based interceptor capable of being deployed by 2016. The Iranian threat, remember, is to be ripe by 2015.

I would just say to generals and others who think this is such an easy deal, how many appropriations processes do we have to go through without failing on a single one to develop an entirely new SM Block 2B by 2020 that is not even on the drawing board today?

What kind of difficulties may occur? We had the bird in hand. We let it go

for a bird in the bush. This was a huge concession. Let's go a little bit further. How did it happen? The President, and his negotiators for this treaty, have insisted there is no connection between their negotiations and missile defense: We have not conceded a thing on missile defense. It is a win for us on missile defense. Senator KERRY said it would not lessen our ability to do a missile defense program.

So I would just go a little further. The New START negotiations with the Russians concluded in March of 2010. But they began in March of 2009, before the President canceled the Polish site. So what happened was, as part of the negotiations over this treaty, the Russians made absolutely clear they were not happy and did not want, and would not accept, a missile defense system in Europe, the same thing they told President Bush.

But President Bush did not acquiesce. They said: We do not have to have a treaty. We are going to reduce our weapons systems anyway. We will reduce our weapons system. We will not have a treaty. We do not think you are going to attack us, and we are not interested in attacking you. We do not have to have a treaty. But if we have a treaty, we are not conceding our missile defense system one with, and we believe Poland and the Czech Republic are sovereign nations. If they want to enter into an agreement with the United States to put a missile defense system there, you, Russia, sorry, do not have a veto over it. They no longer are under the Communist boot. They are a free nation.

That is the way all of that went down. I think that is a fair summary of what happened. The Bush GMD, the ground-based midcourse defense plan, was based on proven technology and was deployable and a new phase-adaptive approach is way out in the future. It is so far out in the future, this President will not be in office, if he is reelected, to see that it happens. It is a promise in the vapors.

Now, what am I saying? Why am I concerned about this? I just want to repeat that the essence of what happened was, the administration, in negotiating with the Russians, faced a hard-headed approach, typical Russian negotiating strategy, and they blinked. They have always been defensive about it, however. They always did not want it to be believed that this treaty, in any way, compromised our missile defense systems. And their Members have been on the floor defending that.

I am not sure they know all of what I am saying to you. But it is plain to me. I was involved in it. This little quote recently in the Washington Post from Greg Thielmann, a former professional staffer on the Select Committee on Intelligence, stated, concerning the missile defense provisions in the New START treaty:

> One of the greatest ironies is that he—
>
> President Obama—
>
> made sure there was no way to attack the treaty as being tough on missile defense.

You see, the President had a spin. That spin was, nothing in this treaty weakens missile defense. But the truth is it had already been weakened. They already canceled a decade-old policy of the United States to place a missile defense system in Europe and backed off of it and gave us, instead, a bird in the bush way out in the future, a new system not even under development.

Why? Well, it was to walk a fine line, I would suggest, to give into the Russians, on the one hand, and to be able to come back to Congress on the other and say they have not given in. The Russians issued a unilateral statement after the START treaty had been announced that the treaty would be viable only if ''there was no qualitative or quantitative build up'' in U.S. missile defense capabilities.

Well, a lot of you say that does not mean anything. They can say what they want. But as we discussed earlier, at best, there is a very serious misunderstanding between the parties in this treaty. When you have a serious misunderstanding that goes to the heart of what a treaty is about, you do not need to go forward, just like you would not do so with a contract that was being signed. The parties clearly have a misunderstanding of quite a significant nature—about the nature of the contract.

What about foreign policy experts? What have they said? Former Under Secretary of Defense for Policy, Doug Feith, wrote this in the Wall Street Journal very recently:

> The incoming Obama administration was eager to repudiate its predecessor's policy. Russian officials saw their opportunity. They asked again for the concessions that they had before unsuccessfully demanded of Mr. Bush. Mr. Obama agreed to treaty language linking offensive reductions with missile defense, limiting launch vehicles and restricting conversions of ICBMs for missile defense purposes. Mr. Obama's poor negotiating is a cautionary tale: If you want it bad, you get it bad.

Well, I remember early on in this process, in private briefings—and I can say what I said to officials there; it is not in any way classified. I said: I am concerned you want this treaty too badly and the Russians will take advantage of that.

I think that is what happened. They wanted this treaty so badly as a symbol, as an effort to express leadership, and to advance an agenda of the hard left in America that does not always like nuclear weapons and things. They have never liked missile defense.

Former Secretary of State Condoleezza Rice, who had done her advanced work on Russia, said this recently—she has indicated she would like to see the treaty confirmed. Very significantly, Secretary Rice said:

> Still there are legitimate concerns about New START that must and can be addressed in the ratification process.

Must be addressed in the ratification process. She goes on:

> The Senate must make absolutely clear that in ratifying this treaty, the United States is not reestablishing the Cold War link between offensive forces and missile defense. The New START treaty preamble is worrying in this regard as it recognizes the interrelationship of the two.

They say, well, it does not mean much. But it was signed by both Russia and the United States. It means something.

The New York Times, on November 29, reported this, again, to show how we got into this mess concerning diplomatic cables:

> Throughout 2009, the cables show the Russians vehemently objected to American plans for a ballistic missile defense site in Poland and the Czech Republic. In talks with the United States, the Russians insisted that there would be no cooperation on other issues until the European site was scrapped. . . . Six weeks later, Mr. Obama gave the Russians what they wanted: he abruptly replaced the European site with a ship-borne system.

That is my observation. I was in the middle of all of these negotiations. We had hearings on these matters. That is what happened. So I can only conclude that the administration negotiated away a necessary missile defense system in Europe, the ability to deploy a proven system at the expense of our national security, at the expense of our NATO allies' security, because they were too anxious and too committed to this treaty, for what purpose I am not sure.

All this time we have been working on this and the biggest concern to America is other nuclear threats, proliferation and the like.

Mr. Hoagland said in the Washington Post a few days ago that this treaty didn't go far enough. We ought to go to 500 weapons or lower. If you continue to draw down the weapons system, we cease as a Nation to be seen as a credible nuclear power. We encourage others, in my opinion, to develop their own systems, even to the belief that they could be a peer competitor with the United States. This is not a step toward progress and security.

The steps we should take are steps that send clear, unmistakable messages that we believe in our freedom, our integrity, and we are prepared to defend it. We are going to maintain a strong nuclear arsenal necessary for that goal. Once that occurs and we are unequivocal in it and we are prepared to build missile defense systems to defend ourselves from Iran or North Korea or some rogue nation, to defend ourselves against even, I would say, an accidental launch from one of these nations or even Russia, those things are good for peace and good for security. We cannot give them away after 30-plus years of development of a missile defense system that people said would never work. We have proven that we do have a system that can work. It can help protect America. It can give our President strength in negotiating with a nation that happens to have missiles that can reach the United States because he can look them in the eye and say: Send off a missile. We will knock

it down. You are not pushing us around. That kind of thing is important. I believe this administration, through the negotiation of this treaty, through their unilateral actions during the time of negotiating the treaty to capitulate on the European site and alter it dramatically, has done something unfortunate. So while the Europeans say this SM–3 is OK and they can live with it, I suppose they can, but we lost something significant. We lost at least 5 years in being able to deploy a system that we need right now.

I know others want to speak. I respect differences of opinion. But the scenario I have given I believe is correct. I am telling the truth. I believe a lot of Senators have not been aware of it. If I am wrong, let's talk about it. But let's don't run this treaty through so fast that we don't have an opportunity to fully understand what this administration has committed our Nation to in such a way that it could weaken our security and create more instability in the world instead of greater stability. Just signing an agreement on a piece of paper does not create security. A consistent, principled, just approach to our legitimate national defense, advocated clearly and forthrightly without misunderstanding, is the best way to have security in this dangerous world.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I commend my colleague from Massachusetts and so many, including our President, for making this the high priority that it is. We know how vital this is for somebody like myself who is so concerned about Iran going nuclear and the cooperation of the Russians being so essential. The bottom line is, this treaty is essential. It is not just better, it is essential.

But I must rise because of a comment my colleague from Arizona made. First let me preface what I say by my enormous respect for him. We have worked together on many issues. Nobody has done more to serve his country in this Chamber than the Senator from Arizona. I know that. He is a veteran. He is a serviceman. He served his country well. It is something I and every other Member of this Chamber greatly respect.

But unfortunately, I heard him say words before in his desire to get this treaty fully debated, he said: ''After all of the fooling around on New York City,'' referring to the Zadroga bill.

This is not fooling around. These men and the thousands of others who rushed to the towers on 9/11 and in the days thereafter were not fooling around. They, just like my colleague from Arizona, were risking their lives. It was like a time of war. The bottom line is that we were attacked. And without asking any questions, the police and firefighters, the construction workers and EMT workers who rushed to the towers risked their lives in a time of war as well. To call helping them fooling around is saddening and frustrating.

We have had a grand tradition in this country, a grand tradition. When veterans fight for us and risk their lives and get injured, we deal with their medical problems. We help them with their medical problems. Those 9/11 heroes who rushed to the towers are no different. When the Senator from New York, Senator GILLIBRAND, and myself and so many others are pushing hard for the Zadroga bill, we are not fooling around. We are fulfilling our duty as patriotic Americans to all of those from New York and elsewhere who rushed to the towers. We understand there are many needs on this floor and the hour is late. That is true. We tried to vote on the bill earlier. We did not get the number of votes. We are now working with our colleagues on the Republican side of the aisle to find a new pay-for because they didn't like the one that came over from the House.

One final point, this is not a New York issue. This is an American issue. This is not just about New York City or New York State, where admittedly the largest number of 9/11 responders came from, but from every State of the Union, including, I remind my good friend and patriot and veteran from Arizona, between 100 and 200 from the State of Arizona who rushed to New York bravely, selflessly, to help us. We are not asking for a handout. All we are asking is that their medical problems, the cancers and other illnesses that came about because of the glass and the debris that lodged in their lungs when they rushed to service, be treated, just as we treat our veterans.

So I hope after we finish debate on this START treaty—and I understand it should have a full debate—that we will then take up the Zadroga bill. I hope and pray, not only for those on 9/11 who rushed to the towers but for what America is all about, that we, Democrats and Republicans alike, rise to the occasion and pass the Zadroga bill and allow those who served us and are now suffering from cancers and those who will get cancer because of their bravery, their heroism in the finest American tradition, get the medical help they need and deserve. Nine hundred have already died. Thousands are ill and thousands more will learn of their illnesses. We cannot and must not forsake them.

It is not—I underline—fooling around on New York City.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. MCCAIN. Mr. President, point of personal privilege. I understand the Senator from New York had some comment. I said—I will be glad to have the record quoted. I said fooling around with the bill concerning New York. The majority leader keeps bringing up that and other pieces of legislation for votes which don't get enough votes. For the Senator from New York to somehow interpret that as my being critical of the bill itself, of course, is an incredible stretch of the imagination and, frankly, I resent it.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. I understand the comment of the Senator from Arizona. Let me ask this if I may: I appreciate the Senator from Arizona and the Senator from South Carolina agreeing to this.

I ask unanimous consent to amend the request for the order to allow Senator LEVIN to have 10 minutes now and then we would go back to the order with Senator GRAHAM, and Senator BARRASSO would be added for 10 minutes to the overall list.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Michigan.

Mr. LEVIN. Mr. President, the missile defense program is not covered or limited by the New START treaty. That is about as simple a statement as I can make, and there has been an awful lot of debate about the missile defense program and allegations that it is limited by this treaty. Let's listen to the experts.

The Secretary of Defense first, in testimony before the Armed Services Committee on June 17, said: The treaty will not constrain the United States from deploying the most effective missile defenses possible nor impose additional costs or barriers on those defenses. I remain confident in the U.S. missile defense program, which has made considerable advancements, including the testing and development of the SM–3 missile, which we will deploy in Europe.

Secretary of State Clinton, in testimony before the Armed Services Committee on June 17:

> The treaty does not constrain our missile defense efforts. I want to underscore this because I know there have been a lot of concerns about it, and I anticipate a lot of questions.

Then she said about the preamble:

> The treaty's preamble does include language acknowledging the relationship between strategic offensive and defensive forces, but that is simply a statement of fact. It, too, does not in any way constrain our missile defense programs.

General Chilton, commander of the United States Strategic Command:

> As the combatant command also responsible for synchronizing global missile defense plans, operations, and advocacy, I can say with confidence—

This is our top commander—

> that this treaty does not constrain any current or future missile defense plans.

The Senator from Alabama talked about some effort here to carry out some kind of a leftwing agenda. GEN Kevin Chilton is the commander of the United States Strategic Command.

> . . . I can say with confidence this treaty does not constrain any current or future missile defense plans.

The ballistic missile defense review report which was filed earlier this year made it clear that the administration

is pursuing a variety of systems and capabilities to defend the homeland in different regions of the world against missile threats from nations such as North Korea and Iran. They talked about the phased adaptive approach to missile defense in Europe. The Secretary of Defense and the Joint Chiefs of Staff have recommended the phased adaptive approach unanimously. These are our top military people. They are advising us. This is not some political agenda which is being implemented by this treaty. This is a military and a security necessity for this country. That is not just me saying that. This is the top military people of our country who are saying it.

The NATO strategic concept, this is what NATO is saying about that phased adaptive approach which has been criticized during an earlier statement. This is what the NATO folks say about it. These are our allies.

The United States-European phased adaptive approach is welcomed as a valuable national contribution to the NATO missile defense architecture.

The Armed Services Committee, in our authorization bill, section 231(b)(8), said the following:

There are no constraints contained in the New START treaty on the development or deployment of effective missile defenses, including all phases of the phased adaptive approach to missile defense in Europe and further enhancements to the ground-based midcourse defense system as well as future missile defenses.

Admiral Mullen—the top uniformed military official in our country—

I see no restrictions in this treaty in terms of our development of missile defense, which is a very important system. . . .

That was in front of the Foreign Relations Committee, chaired with such distinction by Senator KERRY. He said that in May of 2010.

GEN James Cartwright, Vice Chairman of the Joint Chiefs of Staff—he is our No. 2 top uniformed official—here is what General Cartwright said:

. . . all of the Joint Chiefs are very much behind this treaty . . . we need START and we need it badly.

General O'Reilly, again, director of our Missile Defense Agency:

Throughout the treaty negotiations, I frequently consulted with the New START team on all potential impacts to missile defense. The New START does not constrain our plans to execute the U.S. missile defense program.

And this is what he added:

The New START Treaty actually reduces previous START treaty's constraints on developing missile defense programs in several areas . . . we will have greater flexibility in using it as missile defense test target with regard to launcher locations, telemetry collection, and data processing, thus allowing more efficient test architectures and operationally realistic intercept geometries.

This is not our civilian people who might, allegedly, have some kind of a political agenda. These are our top military people in our country who are telling us there are no constraints on missile defense. Every single one of them supports it. The people who are in charge of our missile defense system strongly support it. The Chairman of the Joint Chiefs of Staff strongly supports it. The suggestion that there is sort of a political agenda behind this treaty flies smack in the face of the sworn—not sworn testimony; they were not under oath; we do not need them under oath—the testimony of our top uniformed military officials in this country. The suggestion that what is driving this is some kind of a political agenda falls completely flat. It runs directly counter to the testimony of these officials.

In terms of the preamble language—and this is where the pending amendment would seek to amend the treaty itself by removing the language, which, of course, kills the treaty; if you amend the treaty here, that is the end of the treaty—the full paragraph says:

Recognizing the existence of the interrelationship between strategic offensive arms and strategic defensive arms, that this interrelationship will become more important as strategic nuclear arms are reduced, and that current strategic defensive arms do not undermine the viability and effectiveness of the strategic offensive arms of the Parties. . . .

This statement is a longstanding, decades old recognition of an undisputable fact: There is a relationship between strategic offensive and strategic defensive systems. It has been recognized in our nuclear arms limitation and reduction treaties since the 1970s.

This is President George W. Bush on this subject. It is a joint statement with President Putin, on July 22, 2001. This is not President Obama. This is President George W. Bush. This is a joint statement, with President Putin:

We agreed that major changes in the world require concrete discussions of both offensive and defensive systems. . . .We will shortly begin—

We all ought to listen to this. Those who are charging this is some kind of an agenda of President Obama and is not totally in sync with what has come before in terms of START treaties should listen to what President George W. Bush said in 2001.

And I will finish. I think I have run out of time, so I will finish here. I thank the Chair.

I think this is the one statement which is the clearest of them all. This is President George W. Bush:

We—

President Bush and President Putin—

will shortly begin intensive consultations on the interrelated subjects of offensive and defensive systems.

This relationship is as old as our treaties. Statements of interrelationship have been made by Democratic and Republican Presidents, and I would hope that this language would not be stricken. If it is, it will kill the treaty, and it will kill it for a reason which is totally insufficient. And argument here runs smack, again, into the statements of support from our top uniformed military officials.

Again, I want to thank the chairman and ranking member of our Foreign Relations Committee. They have done a superb job in handling these hearings and presenting this to the Senate.

I yield the floor.

The PRESIDING OFFICER (Mrs. HAGAN). The Senator from South Carolina.

Mr. GRAHAM. Madam President, I think I am recognized for 10 minutes; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. GRAHAM. Let me know when 9 have expired, if you do not mind.

The PRESIDING OFFICER. Certainly.

Mr. GRAHAM. We are going to have a little exchange here in a minute about what the last week has been like. There have been some statements that Republicans have not been here offering amendments, that somehow we have sort of been letting time pass at the expense of a meaningful debate on the START treaty. I think we can catalog at least what three of us have been doing in the last week, and that might be informative to the body as to why it has been tough to talk about START in a meaningful way.

But to Senator LEVIN, who is a wonderful man, if this preamble language being taken out of the treaty is a fatal problem, then that bothers me because I do not know if any Russians are listening to this debate, but I have a simple question for your government. Your government has been saying publicly that if we deploy—the United States—four stages of missile defense, you believe that allows you—the Russian Government—to withdraw from the treaty.

We all intend to do that. Our President is saying that we are going to deploy four stages of missile defense to defend this Nation against missile attacks from North Korea, Iran, anywhere else it may come from. If you do not agree with that, let us know now because it is not going to help you or us to sign a treaty and it fall apart later.

So at the end of the day, this is a simple question that needs to be answered in a direct, simple way. Does the Russian Government believe the preamble language that Senator MCCAIN is trying to strike gives them a legal ability to withdraw from the treaty if we move forward on missile defense, as we plan to? That is not complicated. That is a very big deal. And I do not care what an American says about that. I want to hear from the Russian Government as to what you say about that. So get back with me.

Wednesday of last week, Senator KYL said: Here is my view of how we should do START in the lameduck.

I say to the Senator, you suggested that we should get the tax issue behind us, and we need to come up with a way

to fund the government, and we could start the debate on the START treaty—last Wednesday. I ask Senator KYL, do you remember saying that?

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Actually, if I could correct it a little bit.

Mr. GRAHAM. OK. Please.

Mr. KYL. I was involved in the negotiations over the tax legislation.

Mr. GRAHAM. Right.

Mr. KYL. And in an effort to prod the people in those negotiations to put their ideas on the table so we could complete work on the tax negotiations, I said: Given the schedule that the leader had announced—the desire to leave Washington this afternoon, December 17—I felt they needed to follow—and I laid out a schedule, the Senator is right—by which we would complete work on the tax legislation and the funding of the government, so we could begin this treaty last Wednesday. And if we were able to begin the treaty last Wednesday, and we did not have any interruptions in the interim, then a period of about 9 days would have existed, even working through the weekend, and we could have completed it by today. By the way, when I said last Wednesday, obviously, I meant the Wednesday prior.

Mr. GRAHAM. It is my understanding, the majority leader said on the floor of the Senate: Our goal is to try to get out by the 18th because we do not want to be here on Christmas Eve like we were last time. I think that was music to most of our ears.

So could the Senator please walk through with me what the Senate has been dealing with since last Wednesday? The tax debate finally got finished when, last night?

Mr. KYL. Madam President, the House finally concluded its work on the tax extensions and related activities last night. I think ours was a night or two prior to that.

Mr. GRAHAM. You were our lead negotiator on the taxes; is that correct?

Mr. KYL. Well, I am not going to take credit for that because I would get a lot of——

Mr. GRAHAM. But the Senator was deeply involved?

Mr. KYL. Madam President, I will totally deny that I had anything to do with it. But I was involved in the negotiations for the Republican Senate side.

Mr. GRAHAM. OK. And those negotiations have resulted in a vote in the House last night.

What else have we done? Was there an effort to pass the Defense appropriations bill without any ability to amend it, I ask Senator MCCAIN?

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. If Senator Byrd were here, he would ask us all to try to abide by the Senate rules and speak through the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. He asked unanimous consent that the three of us be allowed to engage in a colloquy.

Mr. GRAHAM. I apologize.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MCCAIN. My only answer to that is, yes. There was a lot of work and effort and time spent on that issue, yes.

Mr. GRAHAM. I say to Senator KYL, I do believe, in addition, you are our whip on the Republican side; is that correct?

Mr. KYL. Madam President, yes.

Mr. GRAHAM. So one thing that has happened is we have been trying to make sure there was not a vote on the Defense authorization bill in a fashion where there could be no amendment by the Republicans. I think we were successful in beating that; is that correct?

Mr. KYL. Madam President, yes, that is exactly correct. And we were working on that at the same time—well, actually that has been going on now for about 10 or 12 days.

Mr. GRAHAM. How many efforts have there been since the Wednesday in question dealing with the DREAM Act? How many opportunities have we had to deal with different versions of the DREAM Act that may come before the Senate?

Mr. KYL. Madam President, I have forgotten. I would have to tell my colleague, I think it is three. I am not sure. We are now on the sixth version of the DREAM Act.

Mr. GRAHAM. OK. As I understand it, there is going to be another vote on the DREAM Act coming up maybe tomorrow?

Mr. KYL. Madam President, I think that is the schedule, that we would have a cloture vote on the DREAM Act tomorrow morning.

Mr. GRAHAM. And I would assume, as part of the Senator's duties, and some of us who have been involved in immigration, we have been very concerned about that, trying to make sure the DREAM Act does not pass this way because we believe it would be bad for the country; is that correct?

Mr. KYL. Madam President, yes, I have been consulting with our Members on the DREAM Act, on the Defense bill, as the Senator mentioned, on the tax legislation, on what we then called the Omnibus appropriations bill, which——

Mr. GRAHAM. Let's stop there.

The Omnibus appropriations bill was defeated last night; is that correct?

Mr. KYL. Madam President, yes. The majority leader—well, it was not defeated. The majority leader pulled it down in order to reach an agreement with the Republican side on a much slimmed down version, a continuing resolution.

Mr. GRAHAM. Did that take much of your time?

Mr. KYL. Yes, that took a lot of my time, working on the Omnibus appropriations bill. As the Senator knows, when, 2 days ago, we began debate on the START treaty, there was an assumption that I would speak immediately—on the first evening, I said, actually, let's get some business done here first. We need to do the funding of the government. So my first comments were on the Omnibus appropriations bill.

Mr. GRAHAM. As of right now, do we have a deal to fund the government that is firm?

Mr. KYL. Madam President, no. The House of Representatives, I understand, has gone home after adopting a very short-term, I think a 3-day continuing resolution to fund the government since its funding terminates at midnight tomorrow night. We will have to then take up either that—well, we will probably take that up, adopt that, I assume, I hope, by unanimous consent, and then work out the maybe 3-month continuing resolution that will have to be passed by both bodies before we go home.

Mr. GRAHAM. To my friend from Arizona, Senator MCCAIN, are you aware of an effort to repeal the don't ask, don't tell policy, that would allow no Republican amendment, that could be as early as tomorrow or this weekend?

Mr. MCCAIN. I would say, Madam President, that not only on the don't ask, don't tell has the tree been filled but also on the DREAM Act. I have obviously been heavily involved in immigration issues for some years, including things that have happened including the murder of a Border Patrol agent just in the last couple days in Arizona, obviously by someone from the drug cartels. So, yes, there will be, again, a vote with no amendments allowed, again, on either one of those pieces of legislation.

Mr. GRAHAM. Thank you. Feelings are getting a bit raw here and there is no use blaming anybody. It is hard to reach a consensus on how to fund the government. There was an effort to do it that fell apart that I thought was against the mandate of the last election. Thank God we defeated that, but it took a lot of effort. There is an effort to pass the DREAM Act that I think is unseemly and counterproductive.

The PRESIDING OFFICER. The Senator has consumed 9 minutes.

Mr. GRAHAM. Thank you. That has been counterproductive to overall immigration reform, and I don't think it is immigration reform more than it is politics.

So, in conclusion, it has been a week from hell. It has been a week where we are dealing with a lot of big issues, from taxes to funding the government to special interest politics. I have had some time to think about START but not a lot, and it is wearing the body.

This is a major piece of legislation. My good friend, JOHN KERRY, whom I respect, I know has tried to get this debate going in a way we could—to find a conclusion we all could vote on and go home and explain to our constituents.

Senator KYL laid that way out. Unfortunately, everything you hoped to have happen from Wednesday to this Friday has, quite frankly, just been unacceptable to a serious debate on START. Here we are, the week before Christmas Eve, and we have talked about a lot of stuff—some important, some politics—and that is the first time I have had the chance to talk about START.

So I am not blaming anybody. But please don't blame me, that I have somehow ignored START, because we have been pretty busy around here stopping some bad ideas or at least trying to.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. I know another Senator is about to be recognized and I will not take very long.

Let me just say I understand the frustration of colleagues. I truly do. I think my colleagues know the good-faith efforts the President, the Vice President, myself, and others have made to try to move the schedule here. The fact is, we began debate on this treaty on Wednesday afternoon—Wednesday morning, but we were delayed slightly—Wednesday afternoon after Senator LINCOLN's farewell. We had opening speeches. Everybody argued it was important to have opening speeches and not necessarily have an amendment right away; we need to have openings. So we had openings. Then we had the second day of debate. Today, Friday, we have had the third day of debate.

So tomorrow, Sunday, Monday, Tuesday, Wednesday, we have the opportunity to have the fourth day, fifth day, sixth day, which is what colleagues said we needed to try to accomplish this—maybe 6 days—and I believe we can do it in that period of time.

I have been here for 25 years. I have been here when we have had a Republican President and a Republican majority leader. I have been here when we have had a Democratic President and a Republican majority leader and a Republican House and every variation. Inevitably, we have had some tough choices to face which don't please everybody. There are times when we are forced to try to deal with the business of our country. I respect completely—I have worked so closely with the Senator from Arizona for so many years. I know the feelings are what they are. But this treaty is, in our judgment and in the President's judgment, important to our national security. We have 150,000 troops out there across the world—Iraq, Afghanistan. They are pretty uncomfortable tonight, but they are doing their job. I believe we need to do our job here and not necessarily spend so much time worrying about schedule, which often we don't control, for one reason or another.

I know the Senator is upset about something that came over from the House. We don't control the House. The House made a decision to pass something and send that to us, and the majority leader, for all the obvious reasons, feels compelled it is something he ought to deal with.

So let's do this business. Let's not complain. I think the important thing here is to keep working. It is Friday night. I will stay as late as anybody wants to bring an amendment. Tomorrow we have some votes. We may or may not have intervening business. I don't know what the outcome of those votes will be. But we have the ability to continue on this treaty, and we certainly have the ability to finish it well before Christmas. The majority leader has made it clear to me. There are only four items or five items that have to be dealt with. The spending, and now that is going to be short-term spending until we resolve the differences. So we have spending. The second item is the two votes tomorrow, that is three items, and perhaps one other vote on the New York thing—I don't know what the situation is on that—and the START treaty. So on two of those items, I think most people understand we are not sure what the outcome is going to be. One we may be on for 1 day. It is hard to say. But other than that, this is the only business.

Mr. DURBIN. Madam President, would the Senator yield for a question?

Mr. KERRY. I am happy to yield.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. I have just checked with the clerk and it is my understanding eight amendments have been filed to date on this START treaty.

Mr. KERRY. I think we had about five, but it may have gone up in the time I have been here.

Mr. DURBIN. The latest count, eight amendments. We are on the third day of debate. How many of these amendments have been called for a vote?

Mr. KERRY. We are only on the first amendment.

Mr. DURBIN. I see. Is the Senator from Massachusetts prepared to have a vote on one of these amendments or all of these amendments?

Mr. KERRY. We are prepared to vote actually on the treaty, but they have several amendments. We want to give them time to have those amendments. We are prepared to vote on this amendment.

In fairness, let me be clear. I want to be clear to the Senator from Illinois. I don't think our colleagues have used the process, in terms of this amendment. They have tried in good faith to line up speakers. I think it is important that they have an opportunity to thoroughly debate it and some other amendments. So I am certainly not joining in suggesting they have delayed this with this amendment. I think we have gotten into a good debate and we ought to be able to finish it.

Mr. DURBIN. I am not suggesting it either, but eight amendments have been filed by Republican Senators and I don't know that you have done anything—I am certain you have done nothing to stop them should they want to move forward with those amendments.

It strikes me that we are on our third day of debate, tomorrow will be the fourth day of debate, and historically many of these treaties have been completed in 2 to 5 days, if I am not mistaken. I ask the Senator from Massachusetts if we can work on this tomorrow, Sunday, Monday, Tuesday—I mean, we could consider the amendments that have been filed; could we not?

Mr. KERRY. Absolutely. Madam President, I would say, obviously, that depends somewhat on what the majority leader's decision is with respect to some of that schedule, but in terms of what we are prepared to do, I believe we can work on it tomorrow. It is my understanding the majority leader said he thought we would be, as well as on Sunday. The majority leader is prepared to continue to proceed forward on this agreement.

Mr. DURBIN. If I could ask the Senator from Massachusetts, through the Chair—this is less question than a statement—but I will try to end it with a question mark. I would like to let the Senator from Massachusetts know that I have withheld the entire day from coming to the floor and speaking about the DREAM Act, which we will be voting on first thing in the morning, although it is very important to me. I wished to give every Senator the opportunity on both sides of the aisle to discuss the New START treaty. I would like to say to the Senator from Massachusetts that when his debate on this matter ends today, as late as it may be, I will come to the floor and speak on the DREAM Act, but I don't want to interrupt what he is doing at this moment in his efforts to give everyone a chance to speak about this national security measure. So that this is in the form of a question, doesn't that sound reasonable?

Mr. KERRY. I thank the Senator for his forbearance and his thoughtfulness with respect to what is going on here on the floor. That is absolutely reasonable, as far as I am concerned.

I will yield for a question from Senator CORKER. Senator DODD is next in line. I am happy to answer a question from my friend.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. CORKER. I have a few questions, Madam President, through you to the Senator from Massachusetts.

It is my understanding we have a cloture vote in the morning and should cloture be reached, we would then be on that matter for a couple days; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. CORKER. So to talk about—I just want to get it straight. There is not going to be any debate on START, should one of the two matters that will be taken up in the morning pass cloture; the whole weekend will be spent on other issues?

Mr. KERRY. Madam President, I am happy to answer.

Mr. CORKER. Let me ask a second question.

Mr. KERRY. Let me answer the first question.

Mr. CORKER. OK. Go ahead.

Mr. KERRY. It doesn't necessarily have to happen that way. That is a choice, I guess, Senators can make. It is entirely possible to yield back time. This is an issue that is well known to every Senator. It has been worked on. It has been voted on. Senators are already accountable for their votes on that issue. It is one that the Senate has debated at great length and had hearings on at great length. If the Senators decide they need the 30 hours, indeed, that can push us along. There is no reason to have to be on it for those 30 hours. I would say to the Senator, it is perfectly plausible we could be back on the START treaty tomorrow, depending on the choices made, first of all, in the votes, and then, secondly, depending on the outcome of the votes, the choices Senators make afterward.

Mr. CORKER. Secondly, Madam President—I appreciate the answer to the first question. My guess is, though, just based on the nature of the topic, I wouldn't be surprised that most of that time is used.

But when a message comes over from the House, when they pass something, whatever one characterizes that as, we don't automatically have to take that up. That can be sent to a committee or left at the desk. We don't have to vote on things that come over from the House of the nature that we are going to be voting on in the morning; is that correct? That is a decision that is made, not something that is automatic.

Mr. KERRY. Madam President, to the best of my understanding, I think the Senator is correct. There are choices that can be exercised by those who are in the position to make those choices, and I think that choice has been made. We are where we are.

Mr. CORKER. So, Madam President, I know the senior Senator from Connecticut is getting ready to speak, someone we all respect. I just want to say, as I said 3 hours ago, as someone who has worked closely with the chairman of the Foreign Relations Committee, and I think I would say in a very constructive way, I think the decision to take up a House measure in the middle of this debate—which I have to say that today there are not many things on the Senate floor that—well, I shouldn't say that. This is one of the more interesting matters I have heard on the Senate floor, where lots of serious issues are being brought up. This is not one of those filibuster kinds of debates. The fact is, we are in the middle of this and we haven't voted on the first amendment and the leadership of the Senate has decided to pivot off that on to something that is totally unrelated to eat up the rest of the weekend.

I just wish to say one more time, I can sense it has totally changed the nature of the debate and people's seriousness or feeling of seriousness about this whole debate.

So I thank you.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. First of all, I wish the Senator from Tennessee had finished the sentence he originally began, which is to say that this is one of the most important things we could take up. But I understand why he checked himself and held back from that.

Mr. CORKER. I would agree.

Mr. KERRY. I would say this to my colleagues. I probably don't have the power or the ability to reach over some of these feelings. I would hope—and this is a prayer as well as a plea on a personal level—that sometimes things happen that are out of some people's control here. I believe we can get through these votes tomorrow and still have time to do something that I know these colleagues of mine—I have had private conversations with them. I know what they think about this treaty behind all of this that is going on. I know they understand the importance of our position in the world, of our capacity to not make foreign policy and national security subject to all these other forces. It is a reach. It is going to require—I understand. I am just asking as one person, one Senator, chairman of the Foreign Relations Committee.

We have put a lot of energy into this effort over the last year and a half. This matters I think to our country. I am not saying that as a Democrat, and I don't think you would say it as a Republican. I think this matters to our country. I think Russia is watching what we are going to do. I think the world is watching what we are going to do. This is about nuclear weapons. It is about stability. We have enormous challenges with Iran and North Korea. Believe me, from all the conversations I have as chairman of this committee with a lot of different leaders, they look to us for what we do and whether we make good on the things we say that matter to us.

I believe this is one of those things they will say: Wow, these guys can't even get their collective acts together to do something as important as a bilateral relationship between the two countries that have 90 percent of the world's nuclear weapons. My prayer is that we can do that in these next 2 days, and I hope we can make that happen.

Mr. KYL. If the Senator will yield briefly, I ask to speak for just 60 seconds. I want to make it clear that I don't think anybody on this side holds Senator KERRY accountable for the fact that this is a confusing and back-and-forth kind of debate between the START treaty and other issues on the floor.

Also, I started to say about 3 weeks ago that, knowing that other people would try to bring issues to the floor, and knowing that we had a lot of other business we had to conclude, I could see this situation developing where despite the best efforts of Senator KERRY and others, it would be very difficult to have the kind of debate we needed on the START treaty.

Unfortunately, my prediction has come true. It has been very difficult because of the intercession of all of these other issues. But Senator KERRY bears no responsibility. The decision to move forward is a joint decision by all of the people on the Democratic side. That, I think, was the critical decision that got us into this problem.

Mr. KERRY. My final comments: I hope the Senate will find the capacity in these next 4, 5, 6, or whatever number of days it is—and the majority leader said he is prepared to allow us to stay here as long as we want to get this business done. The President and the majority leader together have made it clear this is important business that must get done in order for us to complete our business this year. That said, I thank the Senator from Connecticut for his patience.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Madam President, with some reluctance, I rise to talk about this issue. Having given what I thought was my last set of remarks on the floor a week or so ago, I thought I would let it lie there rather than come over. But this is such an important matter. In fact, other than amending the Constitution or declarations of war, I don't know of a more important matter than an arms control agreement like this one.

I will begin by commending our colleague from Massachusetts and our colleague from Indiana. They have spent months and months on this, as has the administration, in terms of their negotiations with the Russians on this question. An awful lot has gone into this.

I have been involved in a lot of lameduck sessions over the years, and I can usually predict what happens during lameduck sessions—not much, unfortunately. But that is the way it is. After an election—and rarely does an election produce the same results in terms of membership coming out of the election as you have going in. This last election cycle is no exception. Obviously, the party that has gained seats or control of one Chamber or the other would prefer to wait until a later date. I understand that.

As I said, I have watched lameduck sessions. I am hard-pressed to name one that has produced much because of what happened and what goes on in these matters. So I begin with that observation.

There are matters, it seems to me, that rise beyond the normal predictions of lameduck sessions. I think this is one. Hence, the reason I decided to express some views on this.

I don't claim to be an expert in this area. Other Members spend far more time on this than I. I don't know all of the details. I have looked at it and

have read about it and I have listened to some of the debate. What motivated me to come and ask my colleagues to consider the moment is the fact that so many of the people we respect, who have been engaged over the years in the conduct of arms control and negotiations, almost without exception—and this is one of those rare occurrences where a cross-section of some of the finest leaders this country has produced in the last 100 years, who have been deeply involved in arms control issues, have joined together in a common cause to ask us to ratify and support this treaty.

It is unique in many ways. So whatever expertise or knowledge some bring or don't bring to this debate, I think it warrants our attention that former President George H.W. Bush, former President Clinton, Secretaries of State Albright, Baker, Christopher, Kissinger, Powell, Rice, Schultz, Brown, Carlucci, Cohen, Perry, and Schlesinger—this is a cross-section of both Republicans and Democrats who have been deeply involved in the very subject matter of this debate, all of whom—every one of them—have said do not miss this moment to get this done.

For those of us who are knowledgeable, or less than knowledgeable about the subject matter—and I am not suggesting that because others have said we ought to do this, we should automatically do it, but others have said it is worthy of our support. It is subject matter that is critical to our country, to the national security of our Nation, and we ought to be able to take the time, in my view, despite the interruptions that have occurred on other matters that are important as well. I don't minimize that.

If you ask me, of all the issues we are debating that are on the present list, none comes close to this issue of arms control and this START treaty. This is, again, one of those rare moments that occur here when I think there is at least a strong potential of consensus—largely a consensus over the notion that we ought to ratify this agreement.

I recommend that my colleagues read the statement of Senator RICHARD LUGAR where he went into great detail and depth—it was a lengthy statement he made about why this particular treaty is worthy of our support, and he anticipated some of the arguments against it. It is as thorough and comprehensive an analysis of why this agreement is important and why it is deserving of our support as Senators, regardless of party and the moment—being in a lameduck session, with other issues that I know have caused great division in this body and are not likely to be resolved. Maybe one or two will, but I doubt it. But this matter transcends that.

I rise, therefore, to offer my thoughts on the matter and to commend Senator KERRY and his staff, Secretary Clinton, Secretary Gates, DICK LUGAR, and others who have been a part of this. There has been 10 long months of debate and discussion, and we are finally able to move forward on this issue. The Senate Foreign Relations Committee had over 20 hearings on this treaty. It has been analyzed and debated for over a year now. Senators KERRY and LUGAR and their staffs have worked in good faith to address all of the concerns of both sides of the aisle. The facts and issues are clear to everybody. I think it is time for us to support this agreement.

I commend President Obama, Secretaries Clinton and Gates, as I mentioned, and the entire national security team for negotiating this vitally important treaty with our Russian counterparts and for providing the Senate with extensive information.

As a member of the Foreign Relations committee, I recall last summer Senator KERRY deferring to several of our colleagues and agreeing to not even vote in committee on this matter but to wait until we came back—leave a little time to analyze and think about all of this. We did that. Then the issue was we would vote on it when we came back after the break. Well, don't do that because we have an election coming up, and it could politicize it. Wait until after the election, and there will be a lameduck session and we can do it then. And here we are.

Again, I respect immensely how Senators KERRY and LUGAR have conducted themselves, respecting the legitimate issues raised. But merely because an issue is legitimate doesn't mean it can't be answered. Ultimately, you have to vote. Nobody ever anticipates absolute unanimity, that there wouldn't be those who felt this agreement was lacking in one aspect or another. The way to express that is vote against it. Those of us who feel this is the right thing to do ought not to be denied the ability to express our support for it.

Historically, weapons treaties in the Senate receive wide bipartisan support. The original START treaty was debated during the collapse of the Soviet Union. It reduced nuclear weapons from 10,000 to 6,000. It was adopted by a vote of 93 to 6 in 5 days. START II, which came 4 years later, took only 2 days of floor time, and it passed 87 to 4. Collectively, you have 9 days, and two major START treaties that were able to be adopted.

There is no reason the New START should not enjoy the same bipartisan support—maybe not in the same numbers. Nonetheless, it is time for us to act. Since the expiration of the original START treaty in December 2009, as you have heard over and over again, no verification of Russia's nuclear weapons has occurred.

Simply put, this endangers our national security. The longer we fail to verify, the greater the danger our country faces.

Inspectors on the ground and verification safeguards allow our intelligence community to have a better understanding and more knowledge of Russia's nuclear arsenal. As President Reagan famously said, ''Trust, but verify.'' At the moment, we can only trust. I think we all agree that it is time to verify, as well.

The United States and Russia maintain over 90 percent of the world's nuclear weapons. Therefore, it is vital that we take the lead in securing these weapons to create a world with less risk of nuclear devastation, not to, of course, mention reducing the nefarious threat of nuclear terrorism. This new treaty improves upon and enhances the original START treaty signed in 1991 by President George H.W. Bush, ratified in 1994.

I remind my colleagues again that President Bush supports this agreement. One of the authors of the START treaty signed in 1991 urges us Senators—Democrats, Republicans, and Independents—to support this effort.

The New START treaty establishes lower limits—and I know you have heard a lot of this—for U.S. and Russian nuclear forces of 1,550 deployed strategic warheads, 700 deployed intercontinental ballistic missiles, submarine-launched ballistic missiles, and heavy bombers equipped for nuclear armaments.

It will also limit to 800 the total number of deployed and nondeployed ICBM and SLBM launchers and heavy bombers equipped for nuclear armaments.

All of the new limit numbers were verified and are strongly supported by the Department of Defense. Flexibility will be a key result of the new treaty. It will give the United States the flexibility in deploying our own arsenal and in deciding what is put on land, in the air, and at sea.

In addition, this treaty will improve verification and inspection systems for Russia's nuclear weapons which have not been monitored since the treaty expired a year ago. The new verification measures are less costly and complex than the original treaty, I might add.

Let me quote Secretary Gates on this treaty, who said it ''establishes an extensive verification regime to ensure that Russia is complying with its treaty obligations. These include short-notice inspections of both deployed and nondeployed systems, verification of the numbers of warheads actually carried on Russian strategic missiles and unique identifiers that will track—for the first time—all accountable strategic nuclear delivery systems.''

That is our own Secretary of Defense, the Secretary of Defense of President Bush, and now the current Secretary of Defense. There has been a lot of talk about missile defense in recent months. Some have claimed that START will in some way inhibit the ability of the United States to defend ourselves in this regard. I urge you to read Senator LUGAR's comments about this issue. He went into great detail to examine this allegation and did so in the most thorough manner.

I urge my colleagues, if they have any issues, read Senator LUGAR's comments about this. Those claims are simply not true. New START does not constrain the United States from developing and deploying defenses against ballistic missiles. Secretary Gates, Chairman of the Joint Chiefs, Admiral Mullen, and Lieutenant General Reilly, the Director of the Missile Defense Agency all concur on this point.

Again, I respect your knowledge, your expertise, and how much you have looked into this. But when you have a Chairman of the Joint Chiefs of Staff, the Secretary of Defense, and the Director of the Missile Defense Agency all saying you are wrong on this, respectfully, I suggest maybe when it comes to deciding which side of the argument you are on, I think history will demonstrate that relying on the people who are deeply involved in this ought to outweigh the concerns raised by others.

Concerns have also been raised over modernization of our nuclear weapons infrastructure stockpile. That is not an illegitimate issue. Senator KYL raised this as an important point. I think the President has sought to address these concerns. I don't know if he has done it to the complete satisfaction of those who raised it. He has committed $80 billion over the next decade to modernize our nuclear weapons. This is more than a reasonable sum, I am told by those who are knowledgeable about this. Once the President requests these funds, it is the job, obviously, of those who will be in Congress to appropriate the money.

I spoke with Senator FEINSTEIN a number of days ago, and others—those in a position to be responsible for this—and they have indicated they will support this and make a strong case for it.

Madam President, this treaty will ensure that we continue to build upon our close relationship with Russia as well—not an insignificant issue—in preventing the spread of dangerous nuclear weapons and creating a more stable and secure world at a time when we would all acknowledge it is becoming less and less so, as we have all painfully seen, even in things like the most recent WikiLeaks situation that occurred on cable traffic.

There are growing problems in Iran and North Korea, and all of the concerns we have about these hot spots around the world.

To be able to bring some stability and respect in this relationship with Russia could not be more important at this hour. So beyond the obvious provisions of the treaty, it is critically important to understand the larger context as well. Senator KERRY and Senator LUGAR have very eloquently described that for our colleagues over the last several days. So there are far more important questions in this treaty than just the provisions contained in it, as important as they are.

This treaty will ensure we continue to build on those close relationships. Our two countries have been collaborating to reduce the threat of nuclear weapons for decades. In the tradition of Presidents Reagan, Clinton, and both President Bushes, this treaty furthers that critical strategic partnership between ourselves and Russia.

Again, 90 percent—90 percent—of the world's nuclear arsenals are controlled by our two countries, and the ability to be able to make some significant reductions not only lessens the tensions between our two nations, but the one thing I think most of us fear is having these weapons end up in the wrong hands. And we know as we are here this evening, on this evening a few days before the Christmas holiday, that there are those tonight who are desperately trying to get their hands on this material, and they are determined to do it. We should take advantage of this moment with a treaty that is as well thought out as this and is supported by a broad cross-section of experts in our Nation and not run the risk that we would allow those who seek to do great harm to us to gain access to these weapons because we failed to move.

Madam President, I fear what will happen if we don't. And my colleagues know what can happen after January 6: The place changes, and the votes may or may not be there. I worry deeply about that. So this is more than just a question of the Christmas holiday. We also know what can happen in a few weeks.

Our two countries have been collaborating to reduce the threat of weapons for decades, and in the tradition, as I said, of those who have come before us, this ought to move forward.

The New START treaty has widespread bipartisan support among current and former military and diplomatic leadership. Some of the finest minds that have ever negotiated these issues have begged and urged us to support this agreement. I mention them again, going back to former Secretaries of State Madeleine Albright, James Baker, Warren Christopher, Henry Kissinger, Colin Powell, Condoleezza Rice, and George Shultz—that goes back over the last generation or more of our diplomats—and Secretaries of Defense Harold Brown, Frank Carlucci, Bill Cohen, a former colleague of ours, Bill Perry, and Jim Schlesinger. Again, I say respectfully to my colleagues, these are people who have studied this, who know these issues and have dealt with them in the past. To his great credit, George H.W. Bush, who negotiated that START treaty back in 1991, has urged us to do the same. It is not insignificant when you have that kind of endorsement of this kind of an agreement that this body should ignore it or miss the opportunity to act on it.

It is not every day that we have the chance to avert Armageddon. Nothing short of that is at stake, in my view, and that is the reason this is worthy of our time and attention and our vote, even at this time of the year. In fact, one might make the case, what better time of year to make this case than in this holiday season where we talk about peace in the world to all men of good will?

So, Madam President, I urge my colleagues to take whatever time we have in these next few days to cast a vote and leave a legacy to our children and grandchildren and others that in a tough time in our country when we couldn't come to agreement on much, that on this issue—the one that transcends all of politics, transcends all of ideology—we can come together as others have who have urged us to support this effort, that we do the same in this Chamber in these coming days.

I congratulate my colleagues for their work.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Madam President, I know the Senator from Illinois is about to be recognized. I won't be long, but I would like to take a moment.

These are the waning days. Senator DODD is going to be leaving the Senate. I don't know if he will be speaking in the next days on any of these issues that may be before the Senate, so this may well be his last substantive speech before the Senate, and I just wish to thank him.

I have sat next to Senator DODD for 25 years, and his counsel and his wisdom and his eloquence, which we just heard, are indispensable. He knows how I feel about him and about his leaving, but I wish to thank him for his unfailing commitment to work for the disadvantaged in the world, for other countries, for our global relationships, and especially for peace, and I thank him for his comments this evening.

Mr. DODD. Thank you.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. I would also like to share, Madam President, my words of appreciation for the Senator from Connecticut. I am just not so sure that is his last speech.

Mr. DODD. Yes, it is.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. KIRK. Madam President, this has been an important week for me, the most junior Senator. We passed bipartisan legislation to prevent a huge scheduled tax increase from hitting our Illinois economy in the teeth of a great recession, and we did this with the support of our President, Barack Obama, whose name is on this very Senate desk. We stopped a 1,924-page, $1.1 trillion omnibus spending bill with 6,600 earmarks, which was a big victory for restraint on spending. We stopped a House effort this morning to permit Guantanamo Bay terrorists to be transferred to the heartland—likely to Thomson, IL. The revised House bill that just passed now prohibits such a transfer.

Now to the issue at hand. Madam President, I rise in support of this amendment. In my view, the underlying assumptions of the 20th century's Cold War are breaking down. Under the old doctrine of mutual assured destruction, we assumed the Soviet leadership did not want to commit suicide, and neither did we. In the balance of terror, defenses against attack were ignored—banned even, under an outdated treaty—because the assumptions were relatively sound.

These assumptions are breaking down in the 21st century. We face a future in which nations will have nuclear weapons and the missiles to deliver them. Recall that nuclear technology is 1930s-era engineering and missile technology is 1960s-era engineering. Since the laws of physics cannot be classified, it is only a matter of time before other countries, including enemies of the United States, will develop such weapons.

The difference between the 20th and 21st centuries can be described as a difference between capability and intent. In the 20th century, the United States was fairly assured that the Soviet Union lacked the intent to attack America or her friends. In the 21st century, Iran and possibly other countries now regularly demonstrate the intent to carry out an attack. Of the roughly 150 members of the United Nations, only one—Iran—regularly talks with its head of state about wiping another member of the United Nations off the planet.

In such an environment, the assumptions of our security in the 20th century become dangerously out of date. If the United States and our allies face a future in which America faces countries or institutions which have the capability and intent to attack, then the old doctrine of mutual assured destruction and agreements that depend on this doctrine grant us no safety. In the 21st century, we need actual defenses to secure America and our allies.

Against the growing danger of Iran, the safety of America and Israeli families depends on missile defenses. We know Iran has shorter range scud missiles, used liberally against Iraq in a previous war. We know Iran has North Korean No Dong missiles—called Shahab III missiles in Farsi—that have a much longer range to reach Israel. We know Iran has launched a satellite into orbit using a very long range missile called the Safir. Remember, if Iran can orbit a satellite over anywhere on the Earth, it can deorbit a warhead anywhere too. We know Iran has thousands of uranium cascades operating to refine uranium. We know the Bushehr reactor has now been fueled and will soon begin the production of plutonium in Iran. The greatest emerging threat to the United States and Israel is Iran and its missile and fissile material production. Linked with the other speeches of Iran's own head of state, the future security of American and Israeli families depends on missile defense.

I worry about the administration's missile defense intentions. Early in the administration's term, it slowed down the planned upgrade for the missile defenses of the United States itself. It made plans to cut funding for the U.S.-Israel Arrow 3 missile defense system. When I heard about those cuts, I approached the late Jack Murtha, the chairman of the House Appropriations Defense Subcommittee, to stop that move, and I understand Chairman Murtha did exactly that.

The administration canceled plans to put an X-band radar in the Czech Republic and ground-based interceptors in Poland. It even continued to offer to include Russians inside the missile defenses of NATO. Russia is a country that recently attacked Georgia with missiles. Russia fueled the Bushehr reactor in Iran. It may have also delivered air defense radars to Iran—a nation that Presidents Carter, Reagan, Bush, Clinton, Bush, and Obama have all certified as a state sponsor of terror.

The actions of the administration on missile defense appear uncertain. Under this treaty, we appear to be confirming that a Russian wish be preserved—that they continue to have the capability to effectively attack the United States. I would regard this sentiment as part of the last century and not this, and I worry about the new threat from Iran much more than the old threat from Russia.

It should be the policy of the United States to blunt or defeat any attack from Iran against the United States or Israel, no matter what. The statement in the preamble of this treaty should be deleted so that we give strong Senate direction to our policy of providing the strongest defenses possible against the growing danger of Iran.

I am currently confused as to which Cabinet department is preeminent on this issue. The State Department largely negotiated the preamble, generating pressure for the United States to recognize ''undermining the viability and effectiveness of strategic offensive arms of the Parties.'' In plain English, we would run our defense programs to preserve the ability of Russia to attack. This outdated, 20th-century thinking is enshrined in the preamble.

Such a policy also preserves the future ability of Iran to deliver an attack against the United States. We are assured that a missile—which does not now exist and has not been deployed—will defend us. The Standard Missile 3 Block 2 Bravo is rumored to be considered for development and deployment. But we cannot be defended by a missile that does not yet exist and has not yet been deployed.

What has happened is that the administration has canceled plans to deploy the GBI system to Poland, which would have defended us and would have been deployed. Much to the embarrassment of our Czech and Polish political allies, we withdrew a real defense system for a planned one—a real deployment for a hoped-for one.

It should be the policy of the United States to defend us against attack. It should be our policy to defend allies against attack. Therefore, we should sign no treaty which acknowledges a need to preserve Russia's ability to attack the United States and that also has the effect of opening a way for Iranian missiles to find their mark against American or Israeli families.

I am struck by this debate. If the treaty does not affect the ability of the United States to defend us or Israel against missile attack, then the amendment should go forward without affect on the treaty. If the treaty does limit the ability of the United States or Israel to defend themselves, then the amendment is absolutely necessary to fulfill the assertions of proponents that the treaty has no relation to defense.

Passage of this amendment improves this treaty for this very new Senator. It focuses the treaty on its key objective and makes this treaty much more likely to pass. Defeat of this amendment weakens this treaty. It focuses the debate on ancillary subjects and makes it much less likely to pass.

The 21st century should be a world in which fewer and fewer ways are available for nations to attack the United States or our allies and greater and greater means for the democracies—especially the United States—-to defeat an attack, should war come. Therefore, I urge adoption of the amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Madam President, I would like to ask a unanimous consent. Senator DEMINT will be next. After Senator DEMINT, Senator THUNE, according to the list. I ask unanimous consent, since there were three opponents in a row, if we could insert—I have been asked by Senator MCCAIN to put Senator RISCH in, and I would like to put Senator SHAHEEN before that. So after Senator THUNE, I ask Senator SHAHEEN be recognized for 10 minutes; subsequent to that, Senator RISCH for 10 minutes; and Senator SESSIONS would follow that for 30 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. KERRY. Finally, quickly, before the Senator from South Carolina begins, I would just say to my friend from Illinois, I would point out to him that actually the Russians have helped Israel by cooperating with us. As a result of this cooperative arrangement we reached, they refused to sell the S–300 air interceptor missile to the Iranians, and that actually is very significant with respect to Israel. So the impact of this treaty is very positive for Israel, in the long run, and I think that is important to note.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. KIRK. If the Senator will yield, I understand the S–300 has not been delivered, even though the Russians signed a contract to deliver this to the

Islamic Republic of Iran. But most of the missile threat to Israel is against Russian-built and designed missiles. The Russians have delivered hundreds of Scud missiles to Syria, which represent the vast bulk of the threat to the people of Israel.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. That is exactly why the Obama administration went out to have a reset button and that is precisely what has created this new cooperation. Since there has been this new cooperation, we have been able to move down a different road.

I don't disagree, there are tens of thousands of rockets in Lebanon and elsewhere that come from outside, but that is the whole purpose of moving in a different direction.

Obviously, as we have said previously, the substance of getting rid of this wouldn't bother me. The problem is, it is technical, and it is in a place where it results in a process that kills the treaty. That is the problem.

I think we have taken care of it. I ask my colleague from Illinois to look at the resolution, look at the DeMint amendment which we adopted, which is very clear about our ability to change this entire ''mutual destruction'' relationship and move to an ''adequate defense.'' I think we could even strengthen it further. I am very happy to work with colleagues on a condition or declaration in the next hours that might even improve this further and, if people do not believe it has been adequately stated, we are happy to state it more clearly.

With that, I yield for the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. DEMINT. Madam President, I thank my new colleague from Illinois and associate myself with his remarks.

Since the Chairman referenced my amendment, I appreciate his support of the idea of committing ourselves to developing a missile defense system that could protect against Russian missiles. But unfortunately during the debate in committee, when we offered this as a binding amendment on the treaty, it would not be accepted unless we moved it to a mere declaration, which has no force of law. But it is good we have brought it up and recognize it is a major point of contention in the adoption of this treaty.

I would like to begin by speaking in support of the amendment of my colleagues, Senator JOHN MCCAIN and Senator JOHN BARRASSO, to strike the language in the treaty preamble that links offensive and defensive systems and limits our ability as Americans to protect our citizens. We know the Russians would like to limit our missile defense capabilities. Before President Obama signed the treaty, they expressed a desire to make the United States more vulnerable to future attacks. While discussions about the treaty were underway, Prime Minister Putin commented on American missile defenses. Last December, he said: ''By building such an umbrella over themselves, [the United States] could feel themselves fully secure and will do whatever they want.''

Prime Minister Putin got what he wanted. The Russians successfully linked missile defense to an offensive strategic nuclear weapons treaty.

After President Obama signed the treaty, the Russian Government issued a statement that said the treaty ''can operate and be viable only if the United States refrains from developing its missile defense capabilities quantitatively or qualitatively.'' How much more clear could they be? The understanding of the Russians is that this treaty ties our hands and prohibits us from defending our citizens against Russian missile attacks.

By giving the Russians this lever, the treaty damages the U.S. ability to defend against missile attacks. This has the effect of making America and her allies vulnerable, not only to Russia but to rogue nations. Russia should not be permitted to dictate whether we can develop our missile defense capabilities. No negotiations should require us to sacrifice our sovereignty. The United States has a constitutional duty to protect its citizens and a moral obligation to protect its allies.

Former Director of the CIA James Woolsey said it well in an op-ed he wrote for the Wall Street Journal in November. In it, he asked: ''Why has the administration agreed to a treaty that limits our nonnuclear long-range weapons and runs the risk of constraining our missile defenses?''

The administration's unilateral statement on limited missile defense does not resolve this ambiguity.

This treaty has a flawed premise which I would like to talk about for just a few minutes. The treaty is crafted out of the idea that the United States and Russia play the same role in the world. That is simply not true. The U.S. security umbrella covers over 30 countries. America is a protector of many. Russia, however, is a threat to many but a protector to none.

America's commitments are much greater and parity is unacceptable, especially given Russia's large tactical arsenal, which is not covered at all in this treaty. Moreover, the New START treaty is intended to be a step toward the President's goal of a world without nuclear weapons. President Reagan, who has been quoted at length during this debate, believed the only way to get to a world without nuclear weapons was by making them ''impotent and obsolete'' through a strong missile defense system. He walked out of negotiations with the Russians rather than sacrifice our missile defense options.

Now I would like to go through the ways the New START will reduce the U.S. forces, while Russia is not forced to make any reductions. All the reductions will be on our side.

The Obama administration champions the fact that the treaty would limit both countries to 1,550 deployed strategic nuclear warheads each. However, given the loophole in the counting rules, the number that can be deployed is several hundred higher. That means no reductions are required on behalf of the Russians.

The treaty's delivery vehicle limit is also troubling. The administration cannot even show the Senate how they intend to change the force structure to reach the new deployed delivery vehicle limits. Russia, however, is already well below the new limits.

To be clear, Russia does not have to destroy any nuclear warheads as part of this treaty. The treaty does not deal with nuclear stockpiles or tactical nuclear weapons. Russia can maintain its huge stockpile of roughly 4,000 tactical nuclear weapons, thousands more than the United States has, because the treaty does not restrict those types of weapons, which can also be affixed to rockets, submarines, and attack aircraft.

The administration lost a key opportunity to address the 10-to-1 disparity between Russia and the U.S. tactical nuclear weapons. Proponents argue we will address tactical nuclear weapons during the next treaty, but that was said during the debate on the last arms control treaty with Russia. The administration has also subjected advanced conventional U.S. military capabilities to limitation in this new START treaty. Why were these included?

I also have questions about the verification measures in Russia's compliance. Why is it that the New START treaty has a substantially weaker verification regime than START I? Given Russia's history of cheating on arms control treaties, the weaker verification and inspection provisions in this treaty will only exacerbate the problem.

I also have concerns about the negotiating records for this treaty. We have asked repeatedly for these records and the administration has refused to give Senators access to them. We have asked numerous times and there is a precedent from past ratification of arms control treaties to make it available. We need to see the negotiating records to find out exactly what concessions were made during the negotiating process—particularly given the disagreement between what the Russians are saying about missile defense and what we are saying. We need to see what was agreed to during the negotiations. By not providing negotiating records, the administration has only increased concerns.

Supporters of this treaty would like everyone to believe this is a matter of urgent national security, but this is not true. I would like to quote former Secretary of State Lawrence Eagleburger, who said:

> They want to do [this treaty] before the lame duckers are out of there. That is not the way to move on this issue.

I agree with the former Secretary. This is not the proper way to move on this issue.

As the Washington Post noted in its editorial of November 19:

No calamity will befall the United States if the Senate does not act this year. The Cold War threat of a nuclear exchange between Washington and Moscow is, for now, nonexistent.

If it was so urgent, why did the administration allow the original START treaty, which included verification provisions, to lapse on December 5, 2009? Surely, they were aware it would be months before this treaty would be completed?

After the START I treaty expired, the two countries issued a joint statement pledging ''to continue to work together in the spirit of the START Treaty following its expiration.'' But that never happened.

Senator LUGAR even had legislation that would have allowed the inspections to continue after December 5, but his legislation was ignored. If these verification measures are so urgent, it seems there would have been more of an effort to pass his bill. The administration's promise to bridge the agreement with Russia to preserve verification has failed.

Special Assistant to the President Gary Samore stated last month he was ''not particularly worried, near-term by the lack of inspections.''

As I said earlier today, I take my responsibility of advice and consent very seriously. We would be harming this institution if we do not seriously evaluate the many serious flaws in this treaty. I worry about many of the long-term negative effects this treaty will have on our security, but I would also like to talk some and explain about why I oppose the treaty in the short term.

First, we should not be ratifying this treaty during the lameduck session.

It is unprecedented to do so. The Heritage Foundation crosschecked the dates of each lameduck session of Congress with the Senate date of treaty ratification for treaties going all of the way back to 1947 and found no major treaty has ever been ratified by a Senate during a lameduck session of Congress. Doing so would violate the principle of consent maintained by the government since the 20th amendment was passed in 1933.

The first two sections of the 20th amendment were created to shorten the lameduck period after an election and before the new officials take office. Treaties ratified during a lameduck session are undemocratic, because many of those who support ratification are no longer accountable to the voters. At a minimum, we should wait until the new Senators are sworn in before we consider voting on this treaty.

Let me note that this is only the second day of full debate of this treaty, during a very hectic session. And it is being dual-tracked or triple-tracked with other matters before the Congress and backed up to the Christmas break. We are still working on a way to make sure the government is funded. This Chamber is also considering holding votes on the DREAM Act and don't ask, don't tell and no telling what else.

When the Senate considered the Intermediate Range Nuclear Forces Treaty, known as the INF, in 1998, the Senate gave it 9 days of floor time, and it was not dual or triple-tracked with other issues. We focused on it and had a debate. The first START treaty was available for the Senate's review for over 400 days. I share the concerns expressed earlier today by my colleague from Tennessee, Senator BOB CORKER. He objected to the dual tracking of matters of national security with partisan issues.

As we are debating this treaty, meetings are being held to strategize ways to get votes on other bills to reward special interests and fulfill campaign promises. The New START treaty will have many implications for our country's security and, surely, something as important as this deserves the Senate's full attention.

As I conclude, I wish to thank again Senators MCCAIN and BARRASSO for their amendment, and for their thorough explanations of why it is so important. They were right to point out that the Bush administration worked very hard to break up the linkage between offensive and defensive missile systems.

That is why former Secretary of State Condoleezza Rice wrote in a recent opinion editorial that: The Senate must make absolutely clear that in ratifying this treaty, the United States is not reestablishing the Cold War link between offensive forces and missile defenses. New START's preamble is worrying in this regard as it recognizes the interrelationship of the two.

By passing the McCain-Barrasso amendment, we can fix this, and we can make sure that this treaty does not limit our ability to defend our citizens.

I yield the floor and I reserve the balance of my time.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. Madam President, I too want to rise in strong support of the McCain-Barrasso amendment to strike language from the preamble of this treaty to link strategic offensive arms and strategic defensive arms. This language in the preamble is highly troubling, because it reestablishes an unwise linkage between offensive arms and defensive arms that was broken when the ABM treaty came to an end.

More troubling is the fact that the New START treaty contains specific limitations on missile defense in article V. Moreover, Russia's unilateral statement that the treaty can operate and be viable only if the United States of America refrains from developing its missile defense capabilities quantitatively or qualitatively is also extremely troubling.

When viewed together, the New START treaty's preamble, the limitations on missile defense in article V, and Russia's unilateral statement, amount to a Russian attempt to find a leverage point and exert political pressure upon the United States to forestall deploying a robust missile defense capability by threatening to withdraw from the treaty if we seek to increase our missile defense capabilities.

The remedy for this concern is very simple. It is for the Senate to strike the offensive preamble language. That is why I wholeheartedly support the effort to strike this language from the preamble, as well as an amendment to strike paragraph 3 of article V of the treaty.

There have been conflicting statements made about the preamble and its significance. We have heard supporters of the treaty say that the preamble is a throwaway, and it means nothing. Then, on the other hand, you have got people saying that, well, if you change this, if you strike this language, it is a treaty killer. So we are hearing what are essentially contradictory statements that this means everything and it means nothing. That cannot be. So I would say it is critically important that we as a nation continue to quantitatively and qualitatively build up our missile defense systems. We know that rogue nations such as Iran and North Korea are rapidly building up their ballistic missile capabilities to eventually be able to strike our country.

We cannot let another nation have a vote on whether we build up our missile defenses. I am very confident that if Russia threatens to withdraw from this treaty when we seek to qualitatively and quantitatively improve our missile defenses, the administration will cave in to the Russians. We have already seen something such as this happen with the administration abruptly ending the Bush administration's efforts to build a third missile defense site in Poland and the Czech Republic. Why should we have any confidence that they will not do the same thing when something like this happens again?

That is why it is critically important that we remove this language from the preamble to eliminate any pretext by the Russians to threaten to withdraw from the treaty because we are improving our missile defense capabilities.

It is particularly galling that the administration inserted this missile defense language into the treaty, when one considers that Congress made it abundantly clear at the outset of negotiations on this treaty, specifically in section 1251 of the fiscal year 2010 Defense authorization bill, that there should be no limitation on United States ballistic missile defense systems.

Specifically, we said:

It is the sense of Congress that the President should maintain the stated position of the United States that the follow-on treaty to the START treaty not include any limitations on the ballistic missile defense systems of the United States.

We also received repeated assurances by senior State Department officials that the treaty would do nothing to constrain missile defense. So I was surprised to see that the treaty ended up containing specific limits on some missile defense options in article V, paragraph 3, as I mentioned earlier, as well as this language in the preamble that we are currently considering in the McCain-Barrasso amendment.

When those of us who criticize this treaty point out that Russia may rely on language in the treaty's preamble as a pretext for withdrawal if the United States builds up its missile defense, the administration response is usually to say, the preamble is not legally binding.

Obviously if this language is not legally binding, then it should not be a big deal to delete it from the preamble. But it can be no accident that Russia used the words ''effective'' and ''viable'' in its unilateral statement that it would view American advances in missile defense as grounds for withdrawal from the treaty, thereby creating a textual hook to the treaty for its position.

The unilateral statement is certainly a sign of how Russia interprets the preamble. I believe, therefore, that there is ample reason to be concerned that this administration will not dedicate itself to deploying a robust missile defense that in any way irks Russia. In the preamble Russia has established a pressure point to dissuade this administration from improving our own missile defense system in a quantitative or qualitative way.

Therefore, it is extremely important that the Senate simply remove that preamble language. I wholeheartedly support the McCain-Barrasso amendment. I urge its passage, and ask unanimous consent that I be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THUNE. I would also simply say, again, that I do not think you can have it both ways. You cannot say that this means nothing, and at the same time that it means everything. If it is a throwaway, some language that does not mean anything, that is one thing. But if it is a deal killer for us to suggest that we ought to remove this language, which we think means something, that that is a deal killer, then somehow it means a lot more and it matters a lot more than I think the supporters and proponents of this treaty are letting on.

So I would ask that as we continue the debate, this issue be fully aired. I think we have a lot of people who have come down and talked about it. I think this is at least one amendment that I am aware of on the issue of missile defense. But I do know that in terms of the overall treaty and the concerns that some of us have about it, this issue stands out. The issue of missile defense, when you live in a dangerous world, is a critical issue when it comes to our national security. It is one that we need to take very seriously, and particularly, as has already been mentioned, the threats that we face from rogue nations such as Iran and North Korea. We cannot do anything that would lessen or weaken our ability to defend our country and our allies from threats from those types of countries.

I would say when it comes to this issue, it would make it a lot easier for those who are advocating support for this treaty if the McCain-Barrasso amendment were adopted. We simply delete it and strike this language, which, if it does not mean anything, should not matter all that much. And if it does mean something and it matters, I think that tells us everything we need to know about what the Russians' intentions are with regard to having that language in the preamble.

Couple that with the statements they have made in the unilateral signing statement, along with the article V language in the treaty itself. This is an issue of great importance, and we should not take it lightly, we should not minimize it. We need to have a full debate on it.

I hope we can stay on this issue. I know of the leader's plan to move tomorrow to some other legislative business. But if this particular agreement is that important to the administration and to this country and to the Senate, then we ought to be able to stay on this, and the legislative items, many of which are political items that are sort of what I would call check-the-box items that the Democratic leadership wants to get voted on, ought to be put off. We can deal with those issues another time, another year.

If we are serious about getting this treaty done, then we ought to stay on it, keep our focus on it, and allow the Senate to have a full, fair debate, open to amendments, and hopefully, ultimately, get this thing disposed of one way or the other.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mrs. SHAHEEN. Madam President, I wanted to come down and join Senator KERRY and again recognize his leadership, along with Senator LUGAR's, on moving the treaty ratification through the Senate.

I wish to address some of the objections and concerns that are being raised by the critics of the treaty this evening. First, I want to point out that if the Senate were to approve the amendment that Senator MCCAIN and Senator BARRASSO are proposing, that effectively kills the treaty. I think those people who support that amendment understand that. So that is No. 1.

Secondly, one of the issues that has been raised in a number of the statements this evening has had to do with the concern about dual track. Can the Senate deal with this issue while we have so much other business to deal with? Well, I happen to think that in the Senate we can deal with more than one issue at a time. I believe we can walk and chew gum at the same time.

In fact, during consideration of the original START treaty back in 1992, a treaty that was much more complicated than the one that is pending before us, at the first time the Senate was considering the START nuclear disarmament agreement, the Senate, on the same day we debated the treaty back in 1992, passed an Interior appropriations bill, a DC appropriations bill, and we debated and held two rollcall votes on the Foreign Operations bill. So the concern that we cannot deal with this while we are dealing with other issues is not borne out by the historic precedent.

One of the other issues that has been raised this evening by the critics is that we do not need to do this right away; there is no overwhelming national security concern to get this passed now.

I would point out that we have a number of military leaders in this country who disagree with that. Yesterday, GEN James Cartwright, the Vice Chair of the Joint Chiefs of Staff, said:

> All the joint chiefs are very much behind the treaty. We need START and we need it badly.

Today GEN Frank Klotz, who is considered one of the military's most experienced and respected nuclear arms experts—he is commander of Air Force global strike command, which is the command that overseas the Air Force's nuclear enterprise—says that the New START treaty with Russia should be ratified immediately.

Again, quoting the general:

> I think the START treaty ought to be ratified and it ought to be ratified right now, this week.

With respect to the issues raised about how this treaty impacts missile defense, it is important to point out what some of the most recognized foreign policy, military, national security experts in the country have had to say about this missile defense issue. First, let me quote ADM Mike Mullen, Chairman of the Joint Chiefs, who said:

> There is nothing in the treaty that prohibits us from developing any kind of missile defense.

Then LTG Patrick O'Reilly, head of the United States Missile Defense Agency, said:

> Relative to the recently expired START treaty, the New START treaty actually reduces constraints on the development of the missile defense program . . . I have briefed the Russians personally in Moscow on every aspect of our missile defense development. I believe they understand what that is. And that those plans for development are not limited by this Treaty.

And then Defense Secretary Robert Gates, who said:

> The treaty will not constrain the U.S. from developing and deploying defenses against ballistic missiles, as we have made clear to the Russian government. The U.S. will continue to deploy and improve the interceptors

that defend our homeland. We are also moving forward with plans to field missile defense systems to protect our troops and partners in Europe, the Middle East, and Northeast Asia against the dangerous threats posed by rogue nations like North Korea and Iran. Separately from the treaty, we are discussing missile defense cooperation with Russia which we believe is in the interest of both nations. But such talks have nothing to do with imposing any limitations on our programs or deployment plans.

One of the earlier speakers talked about concerns about those within our security umbrella, our allies and NATO, and how they might be affected by the START treaty. The fact is, every one of our NATO allies has come out in support of passage of the New START treaty. They have all said it is in the interest of the NATO countries.

To go back to what some of the experts have said about missile defense, GEN Kevin Chilton, commander of the U.S. Strategic Command, said:

As the combatant command also responsible for synchronizing global missile defense plans, operations and advocacy, I can say with confidence that this treaty does not constrain any current or future missile defense plans.

Former Secretary of Defense James Schlesinger said:

I don't think it inhibits missile defense in a serious way. I do not think that we will be inhibited by this treaty or even by the Russian pressure with respect to defending ourselves against North Korea and ultimately naturally against Iran.

Former Secretary of Defense William Perry said:

The treaty imposes no meaningful restraints on our ability to develop and deploy ballistic missile defense systems.

Former Secretary of State Henry Kissinger said:

The treaty does not unduly restrict our ability to build and deploy an effective missile defense system.

Finally, former Secretaries of State Kissinger, Shultz, Baker, Eagleburger, and Colin Powell wrote in the Washington Post:

New START preserves our ability to deploy effective missile defenses.

The testimonies of our military commanders and civilian leaders make clear that the treaty does not limit U.S. missile defense plans.

I know we have a lot of experts in the Senate on this issue, but I certainly believe the experts who have spoken about the lack of an impact on our ability as a country to develop a missile defense system are people who should be believed, because they know what they are talking about.

The other thing it is important to point out—and I know Senator KERRY did this earlier—is with respect to the resolution of ratification and some of the concerns that Senator DEMINT raised this evening. I want to read what is in this resolution of ratification. This is language that Senator DEMINT had amended into the resolution to address the concerns he had:

(2) DEFENDING THE UNITED STATES AND ALLIES AGAINST STRATEGIC ATTACK.—It is the sense of the Senate that—

(A) a paramount obligation of the United States Government is to provide for the defense of the American people, deployed members of the United States Armed Forces, and United States allies against nuclear attacks to the best of its ability;

(B) policies based on ''mutual assured destruction'' or intentional vulnerability can be contrary to the safety and security of both countries, and the United States and the Russian Federation share a common interest in moving cooperatively as soon as possible away from a strategic relationship based on mutual assured destruction;

(C) in a world where biological, chemical, and nuclear weapons and the means to deliver them are proliferating, strategic stability can be enhanced by strategic defensive measures;

(D) accordingly, the United States is and will remain free to reduce the vulnerability to attack by constructing a layered missile defense system capable of countering missiles of all ranges;

(E) the United States will welcome steps by the Russian Federation also to adopt a fundamentally defensive strategic posture that no longer views robust strategic defensive capabilities as undermining the overall strategic balance, and stands ready to cooperate with the Russian Federation on strategic defensive capabilities, as long as such cooperation is aimed at fostering and in no way constrains the defensive capabilities of both sides; and

(F) the United States is committed to improving United States strategic defensive capabilities both quantitatively and qualitatively during the period that the New START Treaty is in effect, and such improvements are consistent with the Treaty.

This is language Senator DEMINT proposed that is adopted in the resolution that makes very clear that missile defense is not affected by the treaty.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from Arizona.

Mr. KYL. Madam President, I had hoped to be able to respond to some of the things the chairman of the committee said earlier. A lot of words have been spoken in between what he said and what I will say now. I think I have correct what his arguments are. If I don't, I am sure he will set me straight. Let me respond to some of the things Senator KERRY talked about.

One of the most significant is this. It is the question of whether the preamble is important. Is it binding. Is it significant. While on the one hand the argument is made that it is an insignificant instrument, it is not binding and it is a throwaway statement that is sometimes done for domestic consumption, it has also been portrayed as a treaty killer. Both of those things cannot be true. It cannot be insignificant but also be so important as to be a treaty killer. I suppose it is possible for one side to treat it as insignificant and the other side to treat it as very significant. Thus, insofar as the Russians are concerned, it is a treaty killer. That is obvious because it means something to the Russians. That is the point. We have to appreciate the fact that they have set this up so that the preamble, combined with their unilateral statement, represents the case that they make legally for withdrawal under article XIV, if we develop missile defenses that they believe qualitatively improve our situation vis-a-vis themselves.

That is the importance of it. It is important whether they are laying the predicate for withdrawal from the treaty. Think of it. You have two parties to a contract. There is a dispute about what a critical term in the contract means. One party says: It is not that big a deal. The other party says: Yes, it is. That enables me to vitiate the contract. That is a big deal, because it sets up a future conflict. That is precisely what the problem is in the preamble. So we can't say on the one hand it is insignificant and on the other hand it is a deal killer, a treaty killer.

Second, it is true that either party can withdraw, but only under certain circumstances. When Senator KERRY makes the argument that the Russian threat of withdrawal is not that important because obviously either party can withdraw, that is only true as far as it goes and misses the point. The Russians are setting up, in the instrument, in the preamble and in their unilateral signing statement that accompanied the signing of the treaty, the ground for withdrawal. What they have said is they believe that if we develop our missile defenses, as we have said, then that constitutes the extraordinary circumstances that would give them a right under article XIV to withdraw. So while it is true that either party can withdraw, the question is, is it a withdrawal that is important, that is significant, that we can't ignore, or is it something they will do no matter what and there is nothing we can do about it?

Let me tell you why this is important and go back to the START I treaty. What countries say about these treaties is very important. It sets the groundwork for their approach to foreign relations vis-a-vis each other and, frankly, the position they take. For years the Russians had tried—before them, the Soviets had tried—to get the United States to cut back on or eliminate our missile defense plans. This was the whole point of the famous Reykjavik moment when Ronald Reagan, as much as he would have liked to have rid both sides of their nuclear weapons or as many as possible, nevertheless when it came right down to it, didn't take the deal that Gorbachev offered him which was: You eliminate missile defense and we will eliminate our strategic offensive weapons. I will come back to that in a moment. But it makes the point that the Russians for a long time have been trying to get us to link missile defense and offensive capabilities.

When that occurred in the START I treaty, our negotiators pushed back very hard. Here is what the United States unilateral statement was in response to the Russian statement. And the reason I quote this is because it is diametrically opposed to the approach our negotiators took with respect to

this New START treaty. Here is the United States unilateral statement at that time:

While the United States cannot circumscribe the Soviet right to withdraw from the START treaty if it believes its supreme interests are jeopardized, the full exercise by the United States of its legal rights under the ABM treaty—

The treaty that permitted us to have missile defense—

as we have discussed with the Soviet Union in the past, would not constitute a basis for such withdrawal.

In other words, directly contradicting the Russian claim that they could withdraw on that basis.

Continuing the quotation:

The United States will be signing the START treaty and submitting it to the U.S. Senate for advice and consent to ratification with this view.

In addition, the provisions for withdrawal from the START treaty based on supreme national interests clearly envision that such withdrawal could only be justified by extraordinary events that have jeopardized a party's supreme interest. Soviet statements that a future hypothetical withdrawal from the ABM Treaty could create such conditions are without military or legal foundation.

In other words, the United States rejected the argument that the Russians were making, that the United States withdrawal from the ABM Treaty would constitute a legal right of withdrawal for the then-Soviet Union.

You can argue about the merits of that. But the point is, we did not want to leave unresponded to a view of the Russians that we thought was fallacious, that was antithetical to the interests of a good relationship between the two countries, or that could potentially impact our decision on whether to stay within the ABM Treaty. It was important then to push back. So why did not our negotiators in Geneva push back in this treaty when the Russians sought to do the same thing?

My colleague from Massachusetts said: Well, actually Secretary Rumsfeld and even President Bush at one point said we are going to talk to the Russians about our missile defense and strategic offensive weapons. That is true. However, the United States was never prepared to take a position that those two items should be linked in the treaty.

As Doug Feith, the former Under Secretary of Defense, who actually helped to negotiate the treaty of 2002 with the Russians, wrote in the Wall Street Journal recently that when his Russian counterpart said we need to have missile defense tied into this treaty, Doug Feith said no. And he said: Well, we have to have a treaty to establish the structural relationship between our two countries. Doug said: No, we don't. We have relations with 200 countries. We have no treaty like this to establish a structure for our relationships. Doug said: Look, we don't need a treaty with you to bring down our weapons. We are going to do it anyway. If you want a treaty to conform your withdrawal and ours, that is fine. But we are not going to concede missile defense to you. And the Russians finally backed off.

The point was, in these situations we did not allow the Russians to successfully make this linkage. But in this case, we not only did not push back but we issued our own unilateral statement that essentially confirmed that we were not going to push the issue with the Russians because our missile defenses would only be good against ''regional or limited threats'' was the language that was used.

This is a problem because while it is true that the resolution of ratification has some language relative to the establishment of our missile defenses—by the way, let me quote what was not in the language but was offered by Senator DEMINT at the time. What Senator DEMINT said was that:

Accordingly, the United States is and will remain committed to reducing the vulnerability to attack by constructing a layered missile defense system capable of countering missiles of all ranges.

The administration was not agreeable to that. They did not want language to say we were committed to this. They insisted on saying instead that we were free to do it. That is part of the problem. We do not know what this administration's real commitment is to the development of such a system. What we do know is that we should not allow the Russians to believe they have a legal right to withdraw from the treaty based on our future development of missile defenses, because they might well threaten to do that. And if they do, it becomes a big deal whether the United States says: Fine, leave the treaty, because we are going to develop these missile defense instead or a President says: Well, I am afraid you are going to leave the treaty, so maybe I will pull my punches and we will not develop the missile defense. That is the problem here.

Condoleezza Rice, in an op-ed in the Wall Street Journal, on December 7, made precisely this point. Here is what she said. After saying on balance she would support the treaty, she said:

Still, there are legitimate concerns about New START that must and can be addressed in the ratification process.

And here is the second point she makes:

The Senate must make absolutely clear that in ratifying this treaty, the U.S. is not reeestablishing the Cold War link between offensive forces and missile defenses. New START's preamble is worrying in this regard, as it recognizes the ''interrelationship'' of the two.

Further: Administration officials have testified there is no link and the treaty won't limit our missile defenses.

She says:

Congress should ensure that future Defense Department budgets reflect this.

Continuing:

Moscow contends that only current U.S. missile defense plans are acceptable under the treaty. But the U.S. must remain fully free to explore and then deploy the best defenses—not just those imagined today. That includes pursuing both potential qualitative breakthroughs and quantitative increases.

I have personally witnessed Moscow's tendency to interpret every utterance as a binding commitment. The Russians need to understand that the U.S. will use the full range of American technology and talent to improve our ability to intercept and destroy the ballistic missiles of hostile countries.

She is saying that the preamble is especially worrying in this regard and we need to do something about it. That is what the McCain-Barrasso amendment does. It removes that thorn, it removes that issue, that potential conflict between Russia and the United States if we do go forward with the missile defenses that most of us would hope we intend to do.

Two final points, I think.

Senator KERRY made the point that it is merely a statement of fact that there is a relationship between offense and defense, and in one sense it is true. It is a statement of fact there is a relationship between the two. The point, however, is in a diplomatic agreement here between two countries, it is not always appropriate to acknowledge a particular fact if the purpose of that by one of the parties is to build a foundation for later withdrawal from the pact.

We have never conceded in an offensive weapons treaty a relationship that could infer a quid pro quo between missile defense and strategic offensive weapons, and President Reagan explicitly rejected it at Reyjjavik.

My colleague points out that at least in his view one side should never have an advantage over the other or there is an arms race that will occur. I do not agree with that. I think we should have an advantage. I think we should have missile defense. That is the moral response. That is what Ronald Reagan believed.

To the extent the question is: Must the United States give up missile defense as a condition to reducing offensive weapons, President Reagan was willing to take a chance on a new arms race, knowing that the Soviets could not afford to do it. And they did not. He took the chance, and I think it worked out rather well.

So I think to the point of: What is the harm in recreating this relationship, that is the harm, and Condoleezza Rice has made it very clear that in our ratification process, we should eliminate that harm, specifically by pointing to the preamble, and that is what the McCain amendment would do.

A final point. I do not think this requires much elucidation. The question is, What do the Russian officials say? I do not think we need to spend a lot of time on arguments that they believe this would give them a right to withdraw from the treaty. But there was one comment made by my colleague that: Well, who are you going to believe, the Russians or the United States?

The point is, on Russian intentions and interpretations, I would take into

account what the Russians have said. And without going into a long, detailed explanation, here are a few headlines, and maybe quoting from one article. Headline—this is near the time of the signing of the treaty, right at about the time. This is April 6: ''Lavrov: Russia may pull out of nuke deal if U.S. expands missile defense.'' There are a lot of other headlines and articles that point out the same thing. Here is Bloomberg Business Week: Russia may exit accord if U.S. pursues missile plan. That is according to Defense Minister Sergei Lavrov.

Let me quote a couple things he said, and then I do not need to make this point further because I do not think it has been seriously questioned that the Russians have made it very clear of their intention that the preamble sets up the condition, along with their unilateral statement, for the extraordinary circumstances that would allow their withdrawal under article XIV. This is the article I will put in the RECORD. It is from foreignpolicy.com, and I will ask to put it in the RECORD. But I will quote from it here:

It appears that Russian Defense Minister Sergei Lavrov isn't quite ready to pop the champagne on the new nuclear arms reduction agreement due to be signed in Prague this week.

Russia will have the right to exit the accord if ''the U.S.'s build-up of its missile defense strategic potential in numbers and quality begins to considerably affect the efficiency of Russian strategic nuclear forces,'' Lavrov told reporters in Moscow today.

Going on in the article:

The issue of missile defense was the major sticking point in negotiations over the treaty, particularly after the United States announced plans to build new facilities in Bulgaria and Romania.

Recall that was after the withdrawal of the radar from the Czech Republic and the missiles from Poland.

Continuing on with the article:

As FP's Josh Rogin reported last month, a workaround solution to the issue was reached, in which the issue of missile defense is not mentioned in the body of the treaty itself, but discussed in the preamble sections written by each side. The Obama administration has been adamant that the treaty does not limit the U.S. right to expand missile defense, and will likely make that case to skeptical Senate Republicans. Lavrov, apparently, didn't get the memo:

Russia insists that the agreement includes a link between offensive and defensive systems.

''Linkage to missile defense is clearly spelled out in the accord and is legally binding,'' Lavrov said today.

Madam President, I ask unanimous consent that the text of this article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LAVROV: RUSSIA MAY PULL OUT OF NUKE DEAL IF U.S. EXPANDS MISSILE DEFENSE

(Posted By Joshua Keating)

It appears that Russian Defense Minister Sergei Lavrov isn't quite ready to pop the champagne on the new nuclear arms reduction agreement due to be signed in Prague this week:

Russia will have the right to exit the accord if ''the U.S.'s build-up of its missile defense strategic potential in numbers and quality begins to considerably affect the efficiency of Russian strategic nuclear forces,'' Lavrov told reporters in Moscow today.

The issue of missile defense was the major sticking point in negotiations over the treaty, particularly after the United States announced plans to build new facilities in Bulgaria and Romania.

As FP's Josh Rogin reported last month, a workaround solution to the issue was reached, in which the issue of missile defense is not mentioned in the body of the treaty itself, but discussed in the preamble sections written by each side. The Obama administration has been adamant that the treaty does not limit the U.S. right to expand missile defense, and will likely make that case to skeptical Senate Republicans. Lavrov, apparently, didn't get the memo:

Russia insists that the agreement includes a link between offensive and defensive systems. ''Linkage to missile defense is clearly spelled out in the accord and is legally binding,'' Lavrov said today.

Despite it's best efforts to separate the issues of arms reduction and missile defense, Russia doesn't seem likely to let its opposition to the new system go. Lavrov knows that ratification of the treaty won't be a cakewalk for the Obama administration and that his statements can be used as ammunition by the treaty's opponents. So while Obama and Medvedev may put pen to paper this week, the next stage of the missile defense fight is just beginning.

Mr. SESSIONS. Will the Senator yield for a question?

Mr. KYL. Sure.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. I say to Senator KYL, you, as a lawyer, have negotiated agreements. It seems to me, what I hear you saying is, the United States enters into a binding treaty, equivalent to a party entering into a binding contract, but the other party has laid a groundwork that allows them to exit the treaty and the contract whenever they want to, in essence. Is that correct?

Mr. KYL. Madam President, that is the point I am making, and in contrast to the START I negotiations, where when the Russians said essentially something very similar to this, we pushed back and said: No, you are wrong, that would not be an appropriate reason to withdraw from the treaty. This time we did not do that. We let it pass, therefore, I would suggest, tacitly accepting the legal position of the Russians.

Mr. SESSIONS. Further, it is not a question of whether the U.S. diplomats and negotiators are telling the truth and the Russians are not telling the truth. It is a question of, is there a meeting of the minds? It is a question of what is in the Russian mind as to whether they could have a right to leave the treaty if we proceed with the missile defense?

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Madam President, that is correct.

Mr. SESSIONS. I thank the Chair.

Mr. KYL. Madam President, that concludes the point I am making, and is well made by Senator SESSIONS right now. That problem can be cured by the amendment that would fix the preamble by eliminating the words that create this conflict. I think that is something we should do by adopting the McCain-Barrasso amendment.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Let me ask my colleague from Arizona something, if I can.

I do not think—I do not think—that it is necessary for us to actually have the divide that is sort of being drawn here over this issue of this preamble, given what the preamble says, and also measured against the realities of this treaty, and without the preamble.

Let's pretend for a moment there is no preamble. I will come back to the preamble in a minute. But let's pretend there is no preamble, and we go ahead and we do a very extensive layered defense, as we are planning, and somewhat, and the Russians do not like it. Even without the preamble, is it not true that according to article XIV, paragraph 3, they have a right to say: ''That is going to alter the balance of power. If you do that, we do not like it, we are pulling out of the treaty''? Each party shall in exercising its national sovereignty, have the right to withdraw from the treaty if it decides that extraordinary events related to the subject matter of this treaty have jeopardized its supreme interests. It shall give notice of its decision to the other party.

And that is it. They are out. In 3 months, they are gone. Is that not true?

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Madam President, I say to my colleague, the answer is, yes and no.

Mr. KERRY. Whoa, whoa. It is true they have the right to withdraw; is it not? There is no yes and no. They either have the right to withdraw or they do not. Do they have the right to withdraw?

Mr. KYL. The answer is that while they have the right to do anything—

Mr. KERRY. Do they have the right to withdraw? Madam President, that is the question.

Mr. KYL. Madam President, I say to Senator KERRY, you have asked me a serious question, which requires more than just a yes or no answer.

Mr. KERRY. OK.

Mr. KYL. The answer is, under the terms of the treaty, they have a right to characterize something as an extraordinary event which qualifies under the terms of the contract between the two parties to withdraw. And it is also true that, technically speaking, that is not a decision which we can countermand in any way. In that sense, it is true that they can withdraw.

But it is also true that this treaty, like any other contract, sets up terms

of reference. One of the terms of reference is the supreme national interest clause or the extraordinary circumstance clause. We both agree that clause has to be satisfied in order for a party to be proper or to be—or to properly withdraw from the treaty.

When the START treaty—excuse me, if I could finish. When START was ratified, we pushed back against the Russians when they said: Well, this gives us a right to withdraw from the treaty. We said: No, it doesn't. We made it clear to them they shouldn't withdraw under that circumstance. Here, by being silent, in effect, on it, we are tacitly agreeing with their interpretation, and that is dangerous because I would assume we don't want them to withdraw from the treaty, but they have set up a circumstance which is virtually inevitable because we planned to do the very thing they say will give them the right to withdraw from the treaty.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. I appreciate the answer of the Senator. Let me be clear. There is no language in here, none whatsoever in the treaty, that suggests any measurement or judgment as to the weight or rationale or propriety of their notice. It simply says they shall give notice, and having given notice, automatically, the treaty is over in 3 months. There is no measure. There is no court you go to. There is no measure here. You are out. The point I am making is, no matter what, you can get out.

That said, there is a difference here of opinion. The Senator from Arizona chooses to take these outside statements, which are sending us a signal that obviously they are not going to take lightly to some massive, layered defense that they think affects their offensive capacity. I think the Senator understands that. I am convinced the Senator knows that. He is too smart about this stuff, and he knows too much about it not to understand that if the Russians think all of a sudden we have done something that alters that balance, I believe he thinks they are going to react to that somehow. He has nodded in assent. He does believe that.

So all this nonbinding component says is recognizing the existence of the relationship, it doesn't say they are going to get out. It doesn't say at what point it changes things.

What is more, the record could not be more clear from our unbelievably competent personnel working on this—when you look at the comments of—let me go back to them right now.

I know the Senator from Arizona has respect for LTG Patrick O'Reilly. He is a retired U.S. Air Force lieutenant general, and it is his job to defend America against a missile attack. Here is what he said. He says:

> Relative to the recently expired START treaty, the New START treaty actually reduces constraints on the development of the missile defense program. Under New START, our targets will no longer be subject to START constraints.

So—and when Senators ask: Well, why didn't we just extend the original START treaty, apart from the fact the other side said they wouldn't, which is pretty significant, in addition to that, our military didn't want to because they wanted to get out from under the constraints of START. So when the man who is the head of missile defense tells me this treaty, in fact, removes constraints and improves our situation, then you add it to the plethora of other significant statements, from Secretary Bob Gates, from Secretary Clinton, from Admiral Mullen, from General Chilton, from the various other parties, every single one of them says we are not constrained in the type of defense that we can and will build.

All this says is recognizing the relationship. It doesn't restrict us from changing that. In fact, we have stated we are going to. So, obviously, at some point down the road, I assume the Russians are going to say this may be going too far. But it is more than 10 years down the road. So for 10 years we know we have a relationship where we can inspect and we can improve our situation.

I would further say to the Senator: Does the Senator agree at least with the fundamental understanding with respect to treaties that the preamble is not, in fact, legally binding and part of the treaty? Does the Senator agree with that?

Mr. KYL. Madam President, in a technical legal sense, I believe that is the way it is interpreted. I might also make another point, just to correct something—and we can have this debate later if you want to—but it is not true that no changes qualitatively or quantitatively in U.S. missile defenses will occur until after the 10 years that this treaty will be enforced. In fact, one of the most critical questions is whether the GBI systems we have deployed in Alaska and California will be available to be deployed in Europe or on the East Coast or somewhere else in 2015 or whether that will be delayed until 2017. So, clearly, there are—and those are the systems that would be potentially effective against a Russian ICBM.

Mr. KERRY. Fair enough. I accept that. There are some things we will do, and it may be that we had this moment of question mark earlier. That may be. I do know this: We are going to plan to do what is in our interests in the country in terms of our defense, and everybody has said we are committed to proceeding forward.

I want to come to the DeMint language in one moment, but let me finish this question for a second. The Senator agrees this is not a legally binding component he is trying to knock out. The next question is: Does the Senator agree and understand that if you change a comma in what is deemed to be—even though it is not binding, still nevertheless deemed to be the instrument before the Senate—if you change a word, change a comma, you then have to go back to the Russians and you have to negotiate and seek their agreement; does the Senator understand that?

Mr. KYL. Madam President, the answer to the question is, if the Senate, which is supposed to provide its advice and consent—in other words, it is the other half of the equation to the Presidency, and if we are not to be a rubberstamp, and presumably we can take seriously our responsibility to make changes in the treaty or the preamble—if that is our judgment and if we do that, if we eliminate these words in the McCain-Barrasso amendment from the preamble, then the Russians would have to decide either to accept that change or they would negotiate something with the administration that would then be resubmitted, that is correct, and/or there also could be a side agreement that would be entered into.

Mr. KERRY. I agree. But the bottom line is, the Senator has agreed with my statement that we have to go back to the Russians, and that means this treaty doesn't go into force. It also means you don't know what other parts of the negotiation come forward.

So the choice before the Senate is whether you want to take language, which the Senator has agreed is not legally binding, and you want to go back to the Russians and reopen the negotiations for something that doesn't even bind you, when you already have this remarkable amount of evidence saying we are going to go ahead and do what the Senator is interested in doing.

Even further——

Mr. KYL. Would my colleague yield just for one quick question?

Mr. KERRY. I am happy to yield.

Mr. KYL. You said, then, the treaty would have to go back to the Russians. Of course, the Russian Duma is poised to act on this treaty after the Senate does so. The treaty is going to go to the Russians, and unless my colleague is suggesting the Senate has no right to change anything in it, of course, if it is modified, it goes to the Duma and then the Duma decides do they want to accept that change or not.

Mr. KERRY. Madam President, that is a good point by the Senator, and I don't disagree. He is absolutely correct. The Duma does have to ratify this.

But the point I am trying to make is, it doesn't seem worth trying to have that fight—I mean, if this were a matter that went to the core and essence of where we are heading with the treaty, I would say that is different. But it is not binding. If there was something binding here that required us to do something against our will, sure. But there is no rubberstamp involved in something that has no affect on the actions we have already guaranteed in so many different ways we are going to take. Let me just point out—

Mr. KYL. Would you yield for one quick question?

Mr. KERRY. Sure.

Mr. KYL. If it is not binding, then why does my colleague assume the Duma would have such a hard time accepting the modest change we are proposing?

Mr. KERRY. It is simply a matter of before you get to the Duma, you have to go back and renegotiate this, the treaty doesn't enter into force, and we don't begin what our intelligence community has told us they would like to see happen sooner; the quicker, the better. They want to get to this process.

Moreover, it is also important in another respect. I don't know how much more clear we can be, but I am willing to work with the Senator, and I would love to see if we could sit down in the next hours and come up with something here. We work pretty effectively together, and I think we may be able to do this.

But I don't think these words that are in here are meaningless. In the resolution of ratification, we are saying:

A paramount obligation of the United States Government is to provide for the defense of the American people, deployed members of the United States armed forces, and United States allies against nuclear attacks to the best of its ability. Policies based on mutual assured destruction or intentional vulnerability can be contrary to the safety and security of both countries.

That is a pretty—that is even a new—I was attracted to that, frankly, because Senator DEMINT proposed it, and I said: You know, that is not an unreasonable statement for us to make.

Further, we say in the resolution—this is not unimportant:

In a world where biological, chemical, and nuclear weapons and the means to deliver them are proliferating—

This is what our colleagues have been concerned about—

strategic stability can be enhanced by strategic defensive measures.

We are embracing what our colleagues on the other side of the aisle are suggesting ought to be a part of this.

Then, we say—this is the most important paragraph:

Accordingly, the United States is and will remain free to reduce the vulnerability to attack by constructing a layered missile defense system capable of countering missiles of all ranges.

We are saying it. That is what we are adopting when we pass this resolution of ratification.

So not only do we have all our defense establishment, intelligence establishment, and civilian command saying we are going to build this system, not only have we briefed the Russians—and according to our leading general who is responsible for this, who says he briefed them, he told them about the fourth phase and they have accepted it—not only do we have that, but we are going on record saying we have this purpose to change this relationship and we are going to proceed to build this system.

I think that to put the whole treaty, given what is in the resolution of ratification, on the chopping block as a result of a nonbinding resolution, frankly, it just doesn't make sense, and particularly given what the Senator agrees with me is the consequence of having to reenter negotiations, and more important, the Senator agrees with me the thing he doesn't like is not legally binding.

So let's have a vote. Thank you.

The PRESIDING OFFICER (Mr. UDALL of Colorado). The Senator from Arizona.

Mr. KYL. I am rather enjoying this colloquy, so maybe I could extend it just a tad longer. Of course, the United States is free—I mean we are not going to ever let another country say we are not free to do something that is in our national interest. But the point is, the administration was unwilling to say we are committed to doing this. I think that makes a very important point.

The whole point of what we are arguing is that the Russians would like to put whatever pressure they can on the United States not to deliver—excuse me—not to deploy missile defenses that could be effective against Russian strategic systems. That has been their goal for decades. I think we can all stipulate to that. They would like to bring whatever pressure they can bear against the United States to avoid us developing those kinds of systems.

Unfortunately, in the negotiation of this treaty, we have opened ourselves to that kind of pressure by, for the first time, not pushing back against the Russians when they tried to make their usual interrelationship between defense and offense and say that if we develop missile defenses effective against them, then that gives them the legal and binding right to withdraw from the treaty. We didn't push back on that.

Instead, our signing statement said: Don't worry. We are not going to develop that kind of system. We are only going to develop systems that deal with intermediate threats or regional threats. So even though the Secretary of Defense had announced a missile defense plan on the drawing board here that would go beyond that, A, we didn't push back. We agreed to the preamble language.

We didn't push back against the signing statement the Russians made. Recently, in the briefing in Lisbon, we seemed to confirm our unilateral statement that we were only dealing with regional or limited threats. Then you can throw in the fact that we pulled the proposed missile defense GBIs, ground-based missile interceptors, out of Poland, and the radars associated with that out of the Czech Republic.

All of that suggests the Obama administration is not as serious about missile defense as we would like them to be, and perhaps one of the reasons is because it will anger or upset Russia. So the more pressure Russia can put on the United States not to do it, the more likely the Obama administration is not to do it. The whole point is a matter of pressure—subtle pressure or bullying pressure, which the Russians are pretty good at too.

If this achievement of the START treaty is so important to President Obama—and I think it is—the question is whether he is willing to jeopardize or risk that treaty if the Russians came to him some time later and said: You are developing something on missile defense that bothers us, and if you do that, we are withdrawing. President Obama might say: Don't do that, we will back off.

The evidence suggests that is the approach this administration may be taking. It is worrisome, as Dr. Condoleezza Rice pointed out. That is why she suggested that we fix that problem in the preamble in the ratification process of the treaty.

Mr. KERRY. Mr. President, let me ask my friend this: First of all, I forgot to include in my comments about what we included with the DeMint language in the resolution, which I think you guys ought to be jumping up and down about which is the following:

The United States is committed to improving United States strategic defensive capabilities both quantitatively and qualitatively during the period that the New START Treaty is in effect, and such improvements are consistent with the treaty.

That is about as boldfaced a statement as we could make about where we are heading. I ask the distinguished Senator from Arizona this: If the President clarified that for the Senator in the next 48 hours, or 72 hours, and he were to make more clear to him—to try to address that question particularly for Senator KYL, Senator MCCAIN, and others, would the Senator vote for the treaty?

Mr. KYL. Mr. President, that is a good question. I think the answer is, first of all, that I don't think at this moment in time he can clarify it in that regard because he can't predict what concerns the Russians will bring to him and what his response at that point will need to be. If, for example—

Mr. KERRY. With all due respect—

Mr. KYL. Let me finish my point. If we were developing a system which the Russians say will bother them because we could use that against them, and they want us to change it in some way, my best guess is that he will be inclined to change it, even though he wrote a letter to us saying: Rest assured I am committed to developing good, strong missile defense for the United States.

I think the Russians are trying to bully this administration, or future administrations, into a position where we will be less certain to do the kind of things that are just in our best interest because we will have to be concerned about the Russian response.

Mr. KERRY. That is fair. Mr. President, if the Senator wants every eventuality of the future covered, that is a hard one. I think the President of the

United States—when he speaks and puts something in writing, in whatever form, or tells a Senator to his face, then gives him his word, that is pretty meaningful where I come from.

Mr. KYL. I am not questioning the President's sincerity or his honesty or his current intentions. But nobody can predict the future. President Obama is smart, but he can't predict out into the future the kinds of things that could be implicated as a result of the agreements that are reached.

To finish my point, the whole problem with this is that the Russians are attempting to create a ground for claiming the legal right, as both of us interpret the term in the treaty, to withdraw from the treaty. Why? For only one reason. It is not to create flexibility, as the Senator said. They have the flexibility. It is to create the pressure to apply on this President, or a future President, not to do what we may want to do because of the concern by the Russians as to how that will affect them.

I don't think one can deny the significance and importance of that kind of diplomatic pressure. When we are asking the Russians to help us with the Iranians or North Korea or some other situation, they can say: That's fine except you are trying to do something we don't like in missile defense and then the President doesn't want to have them withdraw from the treaty and would like their cooperation on something else. These things matter.

In the area of diplomacy, you cannot ignore words in a preamble, though it may not be legally binding. Even as my colleague says, they are so important they could be a treaty killer.

Incidentally, I would like to correct something else. I think I am right on this issue. If we modify the treaty in this regard, I think the question to the Duma is, Do you want to accept this? It is not that we have to go back to negotiations. As a practical matter, we might well do that in order to smooth the relationships. But I think the treaty is sent to the Duma with whatever understandings or amendments we attach to it.

Mr. KERRY. Mr. President, let me say to the Senator that, for better or worse, the way it works—and I think the Senator acknowledged this in his answer to my question—you do have to go back to the Russians and you have to have a negotiation and there has to be an agreement. If it was changed further, we would have to come back and go through the entire process again, in order to review or do a new treaty because it would be a different treaty submitted to us.

Let me say, through the Chair, to my friend, that said, I want to clarify it is not the weight of the words that makes this complicated—and it is not. I am not trying to have it both ways and say the words are irrelevant, but therefore he is saying why don't you change them. But it is the process. It is what happens as a consequence, in terms of when we ratify a treaty, if we ever ratify a treaty. And because they are not binding and, therefore, don't affect what we are obligated to do, and every bit of our obligations have been defined by the generals, admirals, various agency heads, et cetera, that has all been defined.

We have a clarity about where we are going. Here is what is important, and I say this to the Senator from Alabama and the other Senators on the floor, this is part of our advice and consent because we have made it clear—we have done something different. We have gone beyond what they did. We are adding our stamp to this in the resolution of ratification, where we have accepted the DeMint language, which is as forward-leaning as you could be in sending the Russians and the world a notice, regardless of what the administration may or may not have said. We have said it and we control the purse strings and we make that policy about what we are prepared to spend for and develop, and that is a robust missile defense system.

That said, let me come back to one other point the Senator raised about the meaning of what happened in the Polish—with the Poles and the switch and phased adaptive system. The fact is—and this is very important—the Obama administration did not come up with this idea for this change. This was not motivated by some different world view of the President or the Obama administration. This is our military.

As the chairman of the Armed Services Committee laid out fairly clearly and in detailed fashion, the military came to us. They are the ones who came up and said this is a better way to do this system. In fact, I have a letter from Admiral Mullen. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CHAIRMAN OF THE
JOINT CHIEFS OF STAFF,
Washington, DC, June 9, 2010.

Hon. CARL LEVIN,
Chairman, Senate Committee on Armed Services, Washington, DC.

DEAR MR. CHAIRMAN: In a meeting on 6 May attended by Secretary Gates and General Cartwright, you asked General Cartwright whether the Joint Chiefs and I were on the record as supporting the New START Treaty and the Phased Adaptive Approach for Missile Defense. I have publicly stated that we support these important elements of our national security posture, and I want to take this opportunity to respond to your query in writing.

The Joint Chiefs; the Commander, U.S. Strategic Command; and I fully concur that the United States should accede to the New START Treaty. It will enable the United States to maintain stability at lower levels of deployed nuclear forces, strengthen its leadership role in reducing the proliferation of nuclear weapons throughout the world, and provide the necessary flexibility to structure our strategic nuclear forces to best meet national security interests.

I want to emphasize that, if ratified, the treaty will make our country more secure and advance our core national security interests. In addition to reducing and limiting stockpiles of strategic nuclear arms, it promotes transparency between the parties. Without this treaty and the transparency it provides, both sides would be less certain about the strategic nuclear balance, which in the past led to the huge stockpiles we are now trying to reduce.

The treaty's reductions and limits were based on deliberate and rigorous analysis in the Nuclear Posture Review and borne out of intense negotiations. The Joint Staff played a crucial role in the treaty negotiations in Geneva and the interagency backstopping process in Washington, D.C. In addition, I met with my Russian counterpart, General Makarov, in both Geneva and Moscow to expedite its negotiations. I firmly believe that this treaty is sound in principle and will provide security and stability in the international security environment.

The Joint Chiefs, combatant commanders, and I also fully concur with the Phased Adaptive Approach as outlined in the Ballistic Missile Defense Review Report. As with the Nuclear Posture Review, the Joint Chiefs and combatant commanders were deeply involved throughout the review process.

The Phased Adaptive Approach more directly addresses the threat in Europe and offers several distinct advantages. The approach utilizes existing and proven capabilities and matches the expected capabilities to the anticipated threat. The architecture, land- and sea-based missiles, radars, and defense systems provide the flexibility to upgrade, adjust, position, and reposition assets in a cost-effective manner as the threat evolves and our capabilities develop. In addition, the Phased Adaptive Approach would enable forward-based radars to augment missile defense coverage of the U.S. homeland and offers increased opportunities for allied participation and burden-sharing. Importantly, this Phased Adaptive Approach offers meaningful capability several years earlier than our most optimistic estimates for our initial approach.

We believe that the Phased Adaptive Approach will adequately protect our European allies and deployed forces, provide the best long-term approach to ballistic missile defense in Europe, and support applying appropriately modified Phased Adaptive Approaches in other key regions as outlined in the Ballistic Missile Defense Review Report.

We appreciate your consideration of the importance of the New START Treaty ratification and stand ready to fully implement the Phased Adaptive Approach for European Ballistic Missile Defense.

Your continued concern and support of our men and women in uniform are greatly appreciated.

Sincerely,

M.G. MULLEN,
Admiral, U.S. Navy.

Mr. KERRY. Admiral Mullen says:

We believe that the Phased Adaptive Approach will adequately protect our European allies and deployed forces, provide the best long-term approach to ballistic missile defense in Europe, and support applying appropriately modified Phased Adaptive Approaches in other key regions as outlined in the Ballistic Missile Defense Review Report.

They are the ones who requested to CARL LEVIN and others, the Joint Chiefs, combatant commanders.

And he said:

. . . I also fully concur with the Phased Adaptive Approach as outlined in the Ballistic Missile Defense Review Report. As with the Nuclear Posture Review, the Joint

Chiefs and combatant commanders were deeply involved throughout the review process.

Mr. KYL. Mr. President, do I have the time?

The PRESIDING OFFICER. The Senator from Arizona has the floor.

Mr. KERRY. I thought I had been recognized.

Mr. KYL. Let me jump in on a couple of points. First of all, it is in my opinion it is incorrect to suggest that the phased adaptive approach is superior to the ground-based or GBI approach. I know there are people in the military who came up here and testified that it was a good idea to do that. Secretary Gates himself said that. I believe, however, if one understood the debate fully, one would appreciate that this was also a political decision made by the President and influenced by other considerations.

This administration has never liked the GBI that the Bush administration developed. It is my opinion that the GBI is more effective than the phased adaptive approach, especially since the administration is not talking about deploying but merely having available the fourth stage. But GBI is a more effective system.

We could have that debate, and I am happy to have that at another time. All I was trying to suggest is that the decision to remove GBI from the plan for Poland and substitute this other approach that is available at a later time, and, in my view, less effective, and also not have the GBI as a contingent backup until 2017, rather than 2015, were mistakes on our part at least, and at worst were decisions made to placate the Russians. That would not be a good thing.

I am simply trying to illustrate the fact that some believe that already in an effort to try to placate the Russians—maybe that is not the right word—try to act in concert with their wishes—choose to characterize it however you wish—the United States has pulled its punches on missile defense. I don't want that to happen.

With this construct, I am afraid that is the kind of influence they would bring to bear. I will ask my colleague a question. Do I understand the Senator to say that if the United States, for example, attaches understandings and conditions to this treaty, if the Senate were to ratify it, and if we make a change in the preamble, that the treaty does not go to the Russian Duma with those conditions or understandings and the change in the preamble but, rather, has to go back to some negotiating process? I thought the process was that the Russian Duma could add its own conditions or understandings and could either accept or reject the treaty as it came to them from the Senate.

Mr. KERRY. Mr. President, the process is that it goes from us under any circumstances, if we have acted on it, to the Government of Russia. The Government of Russia makes the decision as to whether they are going to negotiate and whether it is a substantive kind of change they object to. They may refuse to put it to the Duma or they may want to renegotiate it. It opens it up to renegotiation. It is not automatic. They don't have to send it to the Duma. They can sit on it.

Mr. KYL. I appreciate that clarification. I hope my colleague is not suggesting that, under no circumstances, should the Senate ever change a treaty so that the other party to the treaty would have to, in effect—well, the Senate would never be able to change a treaty. Put it that way.

Mr. KERRY. No, I agree. I already spoke to that. I said if it is in the four corners of the treaty and has fundamental operative impact on us, I would say, OK, we have to go back and do it. That is not the case here. We are talking about an innocuous, nonbinding, and a recognition of an existing reality that the administrations on both sides have already acknowledged. And Dr. Kissinger and others have said ignore the language, it is meaningless. It is simply a statement of the truth.

Mr. KYL. That is my point exactly. If it is no more than that, I cannot imagine that it would be a treaty killer for the Russians unless there was something else afoot. And that something else—they deem it very important. Why? This is the legal grounds for them to withdraw from the treaty. That is the point.

This is precisely what Lavrov, the Foreign Minister, said. Linkage to missile defense is clearly spelled out in the accord and is legally binding and they talked about their ability to withdraw under article XIV based upon the U.S. improvement of our missile defense qualitatively or quantitatively. That is why it is so important to the Russians.

I don't know if it is a treaty killer because I think there is so much else in this treaty the Russians want, they are not likely to walk away from this if that language is eliminated. But I do think it is important to them because they are trying—this is the first time they have been able to get their foot in the door and establish that linkage, even though in the preamble—not in the body, although they did put article V in there, which also confirms the linkage. It is so important to them that it may be a problem for ratification on their side because then they would not have established this binding legal right to withdraw from the treaty.

Again, as Senator KERRY has pointed out, either side can make up a reason to withdraw from the treaty. But it is difficult for either side not to have a pretext, a legal pretext, and that is what they are creating here. The legal pretext is the United States developing a missile defense system that goes beyond what the Russians think it should vis-a-vis their strategic offensive capability. That is the whole point, and that is the reason for the amendment.

Mr. SESSIONS. Will the Senator yield for a question?

Mr. KYL. I have taken the time here, so I will yield the floor to Senators SESSIONS and KERRY, if they want to continue.

Mr. KERRY. I will yield too and Senator SESSIONS has been very patient. I wish to say two things, if I can, in closing, very quickly.

No. 1, the point that the Senator just made about the legal pretext for withdrawing from this treaty, let's go back to the colloquy we had a few minutes ago. You don't need a legal pretext. You don't need anything except a judgment on your part there is an extraordinary circumstance that says you want to get out, and the extraordinary circumstance can be that you see your offensive weapons have been dramatically reduced in their impact by our defense. So they do not need a legal pretext. It has nothing to do with what the Senator has just suggested.

The final comment I would make is, perhaps the Senator and I—and I invite this one more time because I think we have moved enormously with the language we have in our resolution of ratification from Senator DEMINT. We worked on it together. I embraced it. I think it is an important statement. Perhaps the Senator and I can find some further way to include that in here so we are not taking the risk of what they might or might not do.

Neither of us have the ability to predict what their reaction will be. Although I think some people would be pretty clear about the fact that it would not be well received, it could be a serious issue for a lot of different reasons. So if we can avoid that, we have a responsibility to do that in the next day or two. I look forward to working with my colleague, and I thank him for the colloquy.

I yield the floor.

SIGNING AUTHORITY

Mr. KERRY. Mr. President, as if in legislative session and in morning business, I ask unanimous consent that Senator DURBIN be authorized to sign any dual-enrolled bills and joint resolutions during today's session.

The PRESIDING OFFICER. Without objection, it is so ordered.

FURTHER CONTINUING APPROPRIATIONS, 2011

Mr. KERRY. Mr. President, as if in legislative session and in morning business, I ask unanimous consent that the Senate proceed to the immediate consideration of H.J. Res. 105, received from the House and at the desk.

The PRESIDING OFFICER. The clerk will report the joint resolution by title.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 105) making further continuing appropriations for fiscal year 2011, and for other purposes.

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. KERRY. Mr. President, I ask unanimous consent that the joint resolution be read three times, passed; that the motion to reconsider be laid upon the table, and any statements be printed in the RECORD, with no intervening action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution (H.J. Res. 105) was ordered to a third reading, was read the third time, and passed.

EXECUTIVE SESSION

TREATY WITH RUSSIA ON MEASURES FOR FURTHER REDUCTION AND LIMITATION OF STRATEGIC OFFENSIVE ARMS—Continued

Mr. KERRY. Mr. President, I would now inquire—I think Senator SESSIONS is going to be the last speaker; am I correct?

Mr. SESSIONS. I see Senator BARRASSO is here and he may want to speak also. I assume he does.

Mr. KERRY. I don't think we have any more speakers on our side. I think Senator MCCAIN informed me he did not want to speak further, so I think perhaps we are reaching the end of business, although I think Senator DURBIN wanted to speak as in morning business when we have completed everything, as he requested earlier.

So I ask unanimous consent that Senator DURBIN be recognized to wrap up.

Mr. SESSIONS. I see Senator BARRASSO is here. Does the Senator want to follow me?

Mr. KERRY. Mr. President, I ask unanimous consent that when Senator SESSIONS concludes, Senator BARRASSO be recognized for 10 minutes; that after Senator BARRASSO, Senator DURBIN be recognized in morning business.

Mr. DURBIN. Reserving the right to object. I would ask Senator SESSIONS how long he expects to speak.

Mr. SESSIONS. In 10 or 12 minutes I will try to wrap up.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. KERRY. I thank the Chair.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, it has been a very fine discussion between Senator KERRY and Senator KYL, two of our most able Members. Senator KERRY is an able advocate for the treaty, but I do agree with Senator KYL's view that there is more than a misunderstanding concerning missile defense in this treaty. There is a conflict of views about it. It is not an ambiguity, it is more of a misunderstanding or a conflict of views, and a serious agreement, contract, treaty that has a misunderstanding among the parties about a serious matter shouldn't go forward until it is clarified. That would be my view of that.

If it goes back to the Duma and they say: Well, we don't think your missile defense system that you say you might want to build by 2020 will conflict with our treaty reading, so go ahead, then that will be one thing. If they say: No, we firmly disagree; we don't think you should be able to build a missile defense shield in Europe, then we know we have a problem. So that would be how I would feel about it fundamentally at this point.

I just don't feel that if the Russians are serious about a treaty, they would be, in any way, trembling or afraid or upset if we sent the treaty back to them and told them we have a disagreement. This is particularly true when Mr. Putin, on Larry King, just made the statement he did; that if countermissiles will be deployed in the year 2012 or 2015 on our border, they will work against our mutual nuclear potential and we are obligated to take action in response. Mr. Medvedev, in his December statement to the Duma, makes a similar threat about it. So I think we have a serious problem.

The missile defense issue is very important. I know the Presiding Officer, from Colorado, is knowledgeable about these issues. It is a key issue. It has been going on for years—decades—in the Congress of the United States. There has always been a hard group on the left who have opposed missile defense. They called it Star Wars and mocked it and denigrated it. But the truth is, those treaties, those proposals, have worked, and we now have deployed in Alaska and California missile defense systems capable of knocking down North Korean missiles and probably Iranian missiles, although Iranian missiles coming from the other side of the globe, there is some need to have some redundancy there and that is why the missile defense site was selected in Europe.

President Bush and his team spent some years, invested a lot of time working with the Czechs and the Poles. The Czechs agreed to sign an agreement that they would have a radar site and the Poles signed the agreement that they would accept the missile site and the Russians, as well, objected. They have objected to our missile defense system for years, for reasons that strike me as utterly inexplicable. I cannot see how it is possible that the Russians would see 10 missiles in Poland as somehow being a destabilizing event that would neutralize their thousands of nuclear warheads that they can launch at the United States. It is unthinkable. They have hundreds of missiles they can launch and other ways to deliver nuclear weapons. But they have always opposed it, and they particularly opposed the European site. So this has been a contentious issue.

As chairman and ranking member and member of the Armed Services Strategic Subcommittee—and I believe the Presiding Officer is a member of that subcommittee—we have wrestled with this. But I thought, in 2006, when my Democratic colleagues took the majority in the Senate and fully funded the move forward with our missile defense system, we had reached a bipartisan accord on that, and I made a speech in London to that effect and said we had reached that accord.

But in the course of this negotiation over this treaty and in the course of their relationship with Russia, the Obama administration has made very serious errors. I am convinced of it. I know President Obama was only in the Senate a few years, he was a State Senator, a community activist, and he hasn't been used to dealing with the Russians. Maybe he didn't understand the significance of it, but a series of events has transpired since his election that has resulted in great embarrassment to our allies—the Czechs and the Poles—and has greatly and significantly delayed the deployment of an effective missile defense system in Europe and has been replaced by some pie-in-the-sky promise that by 2020 we are going to develop a completely new missile system to deploy 5 years later, when the intelligence estimate of the National Intelligence Agency is that the Iranians will have the ability to hit the United States with an ICBM by 2015.

Actually, we could have had our missile site in Europe sooner than 2016. We could have had it there by 2013, experts told us. But because of delays and other things—we were on track to do it by 2016, which would have been a pretty good safety valve to neutralize this growing threat from Iran, which is determined to have nuclear weapons. Iran is a rogue state. They reject United Nations resolutions, inspectors, and any decent importuning by the world community to constrict their dangerous activities.

My friend and colleague, as was cited before, Senator LEVIN, came down after I spoke earlier and made some reference to my remarks, and he quoted General Chilton, who I know the Presiding Officer remembers testifying before our committee and subcommittee. He is the strategic commander who has been there a while.

Senator LEVIN said that this is what General Chilton said: ''I can say with confidence that this treaty does not contain any current or future missile defense plans.''

It didn't strike me quite right, so I had my staff pull the testimony of the witness. This is the quote he gave at the committee. I think Senator LEVIN missed it or his staff didn't produce it in the correct fashion. He said this: ''This treaty does not constrain any current defense plans''—not ''future,'' ''current defense plans,'' because it does provide a basis for legal objections in the future, and there is an ambiguity about the Russian understanding of whether we are going to go forward with missile defense systems in the future. There just is. It is not a little bitty matter; it is an absolute fact. There is a confusion and really a misunderstanding. The Russians are saying one thing, and we are saying another. I think that is very significant.

Why did I make a difference between future and current? At the time General Chilton gave this testimony, on June 16, 2010, President Obama had already canceled the GBI two-stage site in Europe, so that is off the table. The GBI site, the one we planned to do, is not there. The only thing that is left is a promise that we are going to develop from scratch an SM–3 Block 2B.

You say we have an SM–3 missile. It would be hard to develop a new block missile. It is an entirely new missile. It is bigger around; it is taller; it goes longer; it is really an entirely new development process to develop this SM–3 Block 2. The guidance systems that were used on the Block 3s that were used on ships have been proven very capable, as are our GBI guidance systems. That is where we went.

How did it come about that the President of the United States unilaterally reneged on the U.S. policy to deploy in Poland and the Czech Republic? Essentially, this happened. The day after his election, the Russians announced they were moving missiles near the Polish border. Cables and other documents and testimony indicate that very early in the Presidency of President Obama, the Russians were pushing back hard, again, about missile defense.

The Bush administration refused to be taken in. They knew what they were doing in Europe didn't threaten the Russians, and they were not going to give in to their bluster and did not give in to their bluster. When they stood up in 2002 on the SORT treaty, the Russians eventually signed it without any of this language that constrained our missile defense.

By March of 2009, we were undergoing discussions on the New START treaty—by March. Even before that, the Russians had made clear they were firm this time on missile defense. As the negotiations for the treaty went on, in September President Obama dropped the bombshell, told the Russians that he was going to stop building the third site in Poland as had been planned and then told the Poles later, after it made news. It was quite an embarrassing scene because our allies—sovereign, independent nations on the border of the Russian power who committed to us, stood firm with us to work with us to develop a national missile defense system—had been greatly embarrassed.

We canceled that. That was the plan we were going forward with. It was on plan to be deployed by 2015 or 2016, and it took the missile system that we were using in Alaska and converted it from a three-stage to a two-stage system. That took a little work, but the guidance system and the concept of it were really simpler than the one we had already deployed in Alaska. The generals told us it was not in any way a complex problem to convert their system to a two-stage. So we were on track to deploy a proven system that would work and protect the United States and virtually all of Europe from an Iranian missile attack.

This is all a big mistake, and the Russians kept pushing. One expert said that it is odd that the Obama administration is being criticized for going soft on missile defense when they took great care to make sure it was not a part of the treaty.

Now, you know, I am a former lawyer. I tried cases and prosecuted. What did that mean? Senator KERRY is too. What did that mean? That meant to me exactly what they did. They wanted to come into this Senate and to say this treaty had very little to do with missile defense. But at the same time, they didn't really believe much in missile defense anyway—that had not been President Obama's strongest belief about how to defend America—and they wanted to placate the Russians, who were giving them a hard time. He, politically, was getting the Nobel Peace Prize. He was wanting to have a signature treaty with the Russians to show how much harmony there could be in the world and reset our relationship. I can understand that. It is a noble goal. But when you go eyeball to eyeball with our Russian friends—they are tough negotiators—you have to defend your interests or they will take you to the cleaners.

I do not believe the President legitimately defended our interests. I believe the weakness in the negotiating situation arose from the fact that they wanted a treaty too badly. They wanted this treaty really badly, and the Russians sensed it and they held out, and they got a number of things that a good, tough negotiating authority would not have given them.

I think it is transparent that, while there is not a lot of language in the treaty that directly constricts missile defense, I believe it is transparent that the cancellation of the two-stage site in Europe, in Poland, was to gain the support of the Russians for this treaty. The Russians are now in a position where they stopped it, and they had a big political win. It reinforced the view that Russia is a powerful nation, that they backed down the United States, and those nations, those former Soviet States that are now independent sovereign nations, those guys better watch out because when the chips are down, the United States is going to choose to be with the big boy—Russia—and they are not going to defend you.

So this was a psychological, political, strategic error of major proportions. It is why—it is part of the concern that this administration is weak on defense. Actually, it is one of the larger errors that I think they have made—maybe the largest. I feel very strongly about it.

So I am just not happy and do not think it is correct to argue that this treaty has nothing to do with national missile defense. It was all about it. It was in the center of the negotiations. It was quite obvious from the very beginning.

They worked hard to put as little as possible in the treaty because they didn't want to come to Congress and say they sold out national missile defense to get this treaty. But they sold it out when they canceled the two-stage site, in my opinion. Maybe they thought—I am sure they thought that was the right thing for America. I am sure they did not think it was so important. But it was important. They made a mistake, and now ratifying this treaty without getting a clear understanding about the missile defense question places our security at more jeopardy rather than less.

I know the argument is that signing this treaty will make us more secure. But signing documents do not make you more secure. Talk does not make you more secure. It is really actions that count and motives that count, and the Russians are just implacable, and they will push and push until you say no, and then they will make a decision whether they can accept your position.

They will never stop pushing until you say no with clarity and firmness, as Doug Feith testified he did in 2002 dealing with these very same issues. They said we had to agree to this kind of action to limit our missile defense system—you have to agree to it or we will not sign the treaty. Mr. Feith said the truth, which I have always believed. He just wrote this recently, but I raised it with our negotiators when they seemed so anxious for the treaty.

He said: You don't have to have a treaty with Russia. We don't have a treaty with China, we don't have a treaty with India, Pakistan, England, or France—nuclear powers. It would be nice, but if we do not have an agreement—he told the Russians: Look, President Bush has decided we don't need this many nuclear weapons. We are going to reduce our nuclear weapons whether you reduce them or not. We think you are silly not to reduce them because you have more than you need and you are just wasting money on them. So we won't have a treaty; we are just going to reduce our weapons.

Mr. Feith said that the Russians said: OK, we will take missile defense off the table.

They wanted a treaty for other reasons. They wanted to have the prestige of signing a major treaty with the premier military power in the world—the United States at the time—and they signed the treaty. But as soon as they saw a new President, they came right back at it, and the President blinked.

So now we have a difficult decision. I don't want to be negative about rejecting every treaty. I, frankly, don't think the numbers in the treaty are that dangerous to us. I think we can reduce it to the 1,550 nuclear weapons. That is probably an acceptable number—although the President has a goal, repeatedly stated, to eliminate all nuclear weapons. So presumably this is the beginning of his long march, as he would see it, to eliminate all nuclear weapons, which is not only fantastical,

it is dangerous. The world is not going to eliminate nuclear weapons if we eliminate ours and set an example next week. That is beyond the looking glass thought. It is not a good idea.

I am worried about this whole process and whether the administration gets the nuclear strategic issues. We have had nuclear weapons for a long time, and everybody has been careful about it. They have been very careful about it. We have been very concerned about dangers—wars and accidental launches and that sort of thing—but we have not used them. It has provided a certain degree of stability. The American nuclear umbrella, it is undisputed, provides comfort and security to a host of free, progressive, independent nations all over the world.

Let's take Asia—South Korea, the Philippines, Japan, Singapore. These are nations that believe that if they are unjustly attacked, the U.S. umbrella will be there to help them. So do European nations and other nations around the world with which we are allied. If they think we are bringing our numbers down too much, if they think we have a goal to go to zero, if they think we are not committed to utilizing the power we have, what will they do? I suggest that they will develop their own program. Do you think Japan or South Korea cannot develop a nuclear weapon if Iran can? They could do it in short order. They are worried right now, I suggest, as are other nations in the world. So if we do this improperly, if we do this reduction with Russia improperly, we could actually cause proliferation to occur.

If we do as Mr. Hogan said in the Washington Post just a few days ago—that we should go to 500 nuclear weapons or lower—a lot of nations around the world could see their way to develop 200, 300, 400, 500 nuclear weapons and actually be in a position to be a peer competitor of the United States.

So we could actually be encouraging other nations to think they could be on a par with us as nuclear powers. That is a dangerous logic. So I just say we need to be careful about all of that. I do not have confidence that this administration understands these issues. I think this treaty constricts our missile defense and places it at risk.

That is one of my biggest concerns about this treaty.

Mr. BROWN of Massachusetts. Mr. President, I rise today to express my concern with the bilateral Strategic Arms Reduction Treaty—known as New START—that was signed by Presidents Obama and Medvedev on April 8, 2010.

Before I begin, I would like to recognize, first and foremost, the leadership of Senators LUGAR, KERRY and KYL. I've observed their efforts over the past several months to address the concerns of the Senate and, I must say, it has been pretty inspiring.

Senators KYL and LUGAR, in particular, have been especially helpful in providing me and my colleagues with all the information we needed to make an informed decision.

I have also listened to the persuasive remarks made by the senior Senator from Massachusetts on the importance of this treaty, so I thank him as well.

Over the past several months, I have participated in multiple Senate hearings, met with professional organizations based in my State and Washington, DC, military experts in and outside the beltway, former national security advisers to Presidents, current and former Secretaries of State, expert negotiators of past nuclear arms treaties, and a host of foreign policy and nuclear proliferation professionals.

While the information I have received has helped improve my understanding of the treaty and its importance in some areas, it has not improved my confidence in the treaty's ability to address Russia's submissive attitude toward Iran. I will be clear.

The New START treaty is very important, particularly as it relates to enhancing our overall relationship with Russia. At the same time, however, the United States neglected a very real opportunity to secure better Russian assistance in imposing real, crippling sanctions on Iran as a prerequisite to moving the treaty forward.

It is no secret that Iran continues to defy the international community by developing a nuclear program. Iran asserts, of course, that its nuclear program is peaceful. Meanwhile, the United Nations Security Council, the International Atomic Energy Agency and the entire international community have repeatedly found Iran to be in direct violation of its obligations.

Everyone is familiar with the response Iran has provided to the international criticism it has been given.

To no surprise, Iran continues to hide their nuclear plants, deny IAEA access to its facilities and refuse to answer questions about evidence that it is working on a warhead.

Recent intelligence estimates corroborate those findings. Those estimates find that Iran may also be developing advanced missiles—based on Russian designs, no less—that could, for the first time allow Iran to target Western Europe.

While Iran's advancements in missile defense are extremely disturbing, these concerns are enhanced by the fact that it could use them to develop intercontinental ballistic missiles, which experts say could reach the United States by 2015.

I have to ask: Is there a larger threat than a nuclear-armed Iran with a long-range ballistic missile capability?

We need to get serious here.

My point is that while this treaty is extremely important and has many favorable aspects—let's not fool ourselves into thinking that this treaty does anything to keep Russia's feet to the fire on Iran.

The notion that bilateral disarmament will lead directly to greater progress in stemming Iran's nuclear proliferation is without merit. We need Russia's cooperation. Did we get it in this treaty? I am not so sure.

Iran will not be inspired, in some miracle fashion, to all-of-a-sudden dispose of their nuclear aspirations merely because we agree with Russia to limit our warheads, missiles and delivery vehicles in a bilateral way.

Proliferation in Iran would be a game-changer in the Middle East and would threaten the stability of the entire region. Other states would likely seek to build their own nuclear infrastructure as a hedge, creating further volatility.

In the State Department's report on ''Adherence to and Compliance with Arms Control, Nonproliferation, and Disarmament Agreements and Commitments,'' it found:

> Iran continues to be in violation of Article III of the Non Proliferation Treaty. The United States assesses that Iran has not resolved questions regarding its nuclear program, nor provided the IAEA with requested information to enable it to provide credible assurances about the absence of undeclared nuclear material and activities in Iran. Iran continues to engage in enrichment activity in violation of UN Security Council Resolutions. Despite United Nations Security Council Resolutions, Iran refused to cooperate with the IAEA's ongoing investigation into Iran's past nuclear weapons development activities during the reporting period.

Earlier this year, in a Senate Armed Services hearing on the New START treaty, Secretary of State Clinton asserted that ''our close cooperation with Russia on negotiating this New START treaty added significantly to our ability to work with them regarding Iran.''

Can someone tell me what particular aspect of this treaty compels Russia to change its conduct with respect to Iran's nuclear program?

The New START treaty makes an attempt to reduce U.S. and Russian nuclear arsenals but fails to address directly the urgent concerns centered in rogue proliferators such as Iran and North Korea.

So while I continue to observe the ongoing debate and am hopeful that we can complete action on New START soon, I remain extremely concerned about the treaty's capacity to curtail the development of Iran's nuclear program.

Anyone who says this treaty demonstrates an improvement to that end is kidding themselves.

Tough, meaningful sanctions against Iran is the only solution. Russia's cooperation to that end is very important, but let's not pretend that agreeing with Russia to limit the number of our warheads will convince Iran to stop their nuclear development.

Mr. DURBIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE DREAM ACT

Mr. DURBIN. Mr. President, tomorrow, we are going to have two important votes. I would go so far as to say they are historic. In the history of the United States of America, I do not know how many people have lived in this great Nation. Today there are more than 300 million.

But if you added up all of those who lived in this great Nation since we became a nation, the number would probably be in the billions. In that period of time, only 2,000 men and women have had the honor of being U.S. Senators. It is a humbling statistic, for you, for me, for all of us, to think that we join with so few of our own fellow citizens who have this great opportunity and responsibility.

In the desk drawers around the Senate are the names of the Senators who have served. Some of them are amazing: Daniel Webster, John Kennedy, Robert Kennedy, Ted Kennedy, Mike Mansfield—the list goes on. But there are also many names that have faded into obscurity. You pull open the desk drawer and say: I do not recognize that name. I wonder who that was? One of two thousand I am going to presume served their State and Nation well but left no indelible mark on history. They did their job. That says something for each and every one of them who served here.

But precious few of those 2,000 had a moment in history to do something historic. When we look back in the course of our history, there were opportunities to vote on whether to go to war, to vote on a constitutional amendment, to approve a Supreme Court Justice. All of these things rank in the highest order of the business of the Senate.

But I would say at that top level is the opportunity to vote to extend civil rights and human rights in our Nation, the opportunity to vote for justice. Those are the stories that are told and retold.

The civil rights battles of the 1960s that you and I can vaguely remember from our youth; the giants of the Senate who, when it looked hopeless on the issue of civil rights, found a way. I worked for a man named Paul Douglas who was an extraordinary man and dedicated his life to civil rights. It turned out that his stalwart support made a difference. But what made the real difference was the other Senator from Illinois, Everett McKinley Dirksen, a conservative Republican, who decided he was finally going to pitch in and help to pass civil rights legislation. He is remembered for that. He once said something which may be politically incorrect now. But describing his transition on the issue of civil rights, he said: There is nothing more pregnant than an idea whose time has come.

In his mind, the idea of civil rights had come. When we look back at the Senate of those days and the votes that were cast, for many of the Senators casting those votes, they were painful, difficult votes. The idea of integrating America beyond the Armed Forces, beyond schools, into every aspect of our life was controversial in many parts of our Nation.

It was controversial in the Land of Lincoln, my Home State of Illinois. But the Congressmen and Senators of that day mustered the courage to do it, and they are remembered for that courage. Some of them are exalted for that courage because they did it in the face of opposition, vocal opposition to what they were about. We will have an opportunity tomorrow to vote on what looks like two pedestrian procedural motions, but they are much more. One of them is to eliminate a discriminatory policy in our Armed Services known as don't ask, don't tell. It will be a chance for Members of the Senate to go on record about whether they believe we should move beyond the practices of the past; whether they believe we should acknowledge that people of different sexual orientation can play a valuable role in protecting America. It is a historic vote. I am glad we are going to have it.

Before that vote is another. It is called the DREAM Act. This is a piece of legislation which I have been working on for 10 years. Whenever I am discouraged about how long it has taken, I think of how long these other battles have taken; how many decades it took to bring us to the civil rights vote; how long it took for women to get a right to vote in America; how long it took for the disabled to finally be recognized in America, thanks to the amazing bipartisan leadership of Bob Dole and Tom Harkin in the Senate.

Whenever I feel discouraged that I have been at this for 10 years and still do not have it, I think of those battles, and say to myself: DURBIN, as a student of history, even an amateur student of history, be patient because some of these things take a long time, but they are worth the effort and worth the wait.

The good news is that the House of Representatives did something historic last week. They passed the DREAM Act. I cannot thank Speaker NANCY PELOSI, majority leader STENY HOYER, HOWARD BERMAN, Chairman of the Foreign Relations Committee, and my colleague, LUIS GUTIERREZ of Chicago, enough. What an extraordinary job they did in passing that legislation. It was not easy. The President of the United States, Barrack Obama, who had cosponsored the DREAM Act as a Senator, was on the phone asking Democrats and Republicans to join in this effort to move toward justice.

They passed it by a vote of 216 to 198. It was bipartisan legislation, and it would give a select group of immigrant students who grew up in this country the chance to become legal. I will tell you it would not be easy if this becomes law for them to make that journey from where they are today to legal status.

But last week, the Senate decided that we would accept this challenge as well. After the House passed this bill, our majority leader, HARRY REID, who has been just an amazing ally and friend in this effort, came to the floor and said: We were pursuing another version of this bill to make the point of our commitment to it, but we are pulling that version from the calendar. We are going to vote on the bill that passed the House of Representatives. This will not be a symbolic debate. This debate is for real. If we can pass the bill passed by the House of Representatives, we can send it to the President and make it the law of the land. It will be a real act, not a symbolic, political act.

I thank my colleague for saying that and doing that. The DREAM Act has enjoyed bipartisan and majority support in the Senate virtually every time it has been called. The last time the Senate considered the DREAM Act, it received 52 votes, including 12 Republican votes.

When Republicans last controlled the Senate, the DREAM Act was reported by the Judiciary Committee by a vote of 16 to 3. This has been a strong, bipartisan issue. If some of the Republicans are willing to join us in the Senate, as eight Republicans did in the House, we can make the DREAM Act the law of the land.

This is simply a matter of justice. Let me tell you the story behind the DREAM Act. I have said it before, but I think it is an indication of why it is worth it to pick up the phone and call your Senator or your Congressman, or to send that e-mail or letter, or to perhaps draw them to the side at a public event and tell them your story or your concern.

The story of the DREAM Act goes back more than 10 years ago, when a woman, a Korean woman in Chicago, called our office. She was a single mom with three kids. She ran a dry cleaning establishment. She had just an amazing young daughter. Her daughter was an accomplished concert pianist at the age of 18. Her daughter had been accepted at the Julliard School of Music in New York. Her mom was beaming with pride as her daughter started to fill out the application form.

At a point where it said: Nationality or citizenship, the daughter turned to the mom and said: What should I put here?

Her mom said: I do not know. You see, we brought you to the United States when you were 2 years old and we never filed any papers for you. So I do not know what to put there.

The girl said: What are we going to do?

The mom said: We are going to call DURBIN.

They called my office. And one of my staffers responded and looked into the law. The law was clear. This 18-year-old girl who had lived in the United

States for 16 years, under the law of the United States, was not a citizen and had no legal status in this country whatsoever, and the law said she had to go back to Korea, a place she could never remember, with a language she could barely speak, to live her life.

I thought that was fundamentally unjust. If you want to penalize the mother failing to file papers, that is one thing. But to penalize a girl, who at the age of 2, had no voice in this decision for the rest of her life strikes me as unfair and unjust. So I wrote up the DREAM Act. I went to the Senate Judiciary Committee and found an ally in Senator ORRIN HATCH of Utah.

In fact, it was interesting—I am sure the Presiding Officer will appreciate this—we had a little tussle about who was going to put their name first on this. The first version was Hatch-Durbin. That was OK. I was not as interested in having my name first as getting this passed.

Well, over the years, there have been versions of this bill that have been introduced and considered over the last 10 years. But, sadly, it has not been enacted into law.

The DREAM Act is the right thing to do. It will make America a stronger country. It would strengthen our national security by saying to thousands of young people like that young Korean girl, thousands of highly qualified young people, that they can have a chance to enlist in our Armed Forces and work their way to legal status.

The Defense Department Strategic Plan says the Dream Act would help ''shape and maintain a mission-ready All-Volunteer Force.''

That is why the DREAM Act has the support of national security leaders such as Defense Secretary Robert Gates and GEN Colin Powell. Here is what Secretary Gates says:

> There is a rich precedent supporting the service of noncitizens in the U.S. military. The DREAM Act represents an opportunity to expand this pool to the advantage of military recruiting and readiness.

The DREAM Act also would stimulate our economy. It gives these talented young immigrants the chance to become tomorrow's engineers and doctors and lawyers and teachers and entrepreneurs.

The nonpartisan Congressional Budget Office said: Make no mistake. Engaging these young people and challenging them to serve in the military or to finish at least 2 years of college is going to make them productive citizens and add to the bounty of the United States as they take on big jobs and earn their paychecks and build their homes and families. They concluded the DREAM Act would produce $2.2 billion in net revenues over 10 years.

A recent UCLA study found the DREAM Act students would contribute between $1.4 and $3.6 trillion to the U.S. economy during their working lives. Mayor Michael Bloomberg is a person I admire from New York City. He supports the DREAM Act. He stated succinctly:

> These are just the kind of immigrants we need to help solve our problems. Some of them will go on to create new small businesses and hire people. It is senseless for us to chase out the home-grown talent that has the potential to contribute so significantly to our country.

Senator SESSIONS of Alabama has left the floor. He did not speak this evening on the DREAM Act, but he has been to the floor many times. He opposes it. JEFF SESSIONS and I are friends. We are on the Judiciary Committee. We do agree from time to time, and we have had some pretty important legislation cosponsored by the two of us.

On this issue we disagree. I have carefully followed his complaints or items that he has brought up on the floor that he thinks are weak in this bill. Last week he said on the floor that the DREAM Act is ''a nearly unrestricted amnesty, a guaranteed path to citizenship.''

I appreciate Senator SESSIONS's passion. He has been a strong opponent of the DREAM Act since it was first introduced. With all due respect, that is not what the bill says. Only a select group of students would be able to earn legal status under this legislation.

In fact, according to a recent study by the nonpartisan Migration Policy Institute, only 38 percent of those who were potentially eligible for the DREAM Act would ultimately become legal.

Think about this. About 40 to 50 percent of Hispanic students today drop out of high school.

Fewer than 5 percent of undocumented students go on to college. You can't make it under the DREAM Act unless you graduate from high school, so already about 50 percent of those who are Hispanic are unlikely to qualify. Then only 1 out of 20 enroll in college. And that number may increase. But look at the number it starts with, a small fraction of the Hispanic population. So to argue this is going to introduce opportunities for millions of others doesn't work with the numbers.

The DREAM Act would initially give qualified students a chance to earn what we call conditional nonimmigrant status, not legal permanent residence or citizenship. They can only qualify for conditional immigrant status if they prove in a court of law by a preponderance of the evidence the following: They came to the United States under the age of 15; they are under the age of 30 on the date the bill is signed into law; they have lived in the United States continuously for at least 5 years before the bill becomes law; they have good moral character as determined by the Department of Homeland Security since the date they first came to the United States; they graduated from high school or obtained a GED; and they have registered for selective service.

So the day the DREAM Act is signed into law, to be eligible you must have been in the United States for 5 years. Assume for a moment the President would sign it in a week—not likely, but possible, an answer to my prayers, but possible. That would mean that anyone who came to the United States after 2005 would be ineligible for the DREAM Act. So it is a select group.

Then we say to that select group, you have to meet the following requirements: You have to apply within 1 year of when the bill becomes law or when they obtain a high school degree or GED; they have to pay a $525 fee; they must submit biometrics information, undergo security and law enforcement background checks and medical examinations. These are all requirements to even be eligible for DREAM Act status.

They would be specifically excluded from becoming a conditional nonimmigrant under this bill if: They have a criminal background; they present a national security or terrorist threat; they have ever committed a felony or more than two misdemeanors; they are likely to become a public charge; they have engaged in voter fraud or unlawful voting; they have committed marriage fraud; abused a student visa; or pose a public health risk.

That long list of things I read is an obstacle course which many of these young people will never be able to clear. But we set it up this way intentionally.

During the course of preparing for this, one Senator received a notice that said that the DREAM Act allows the Secretary of Homeland Security to waive all grounds of inadmissibility for illegal aliens including criminals, terrorists, and certain gang members. We had my staff call the Senator's office who put this out and ask: Where did you get that? That is not what it says. They couldn't point to any source.

We then called the Department of Homeland Security and said: All right, give us an answer. Under the DREAM Act, could you waive all these things, would terrorists and criminals have a right? Of course not. The Department of Homeland Security came back and said: No, that isn't what the law says at all.

So we are battling not only passing a bill but a lot of misinformation. That is troublesome.

It is interesting, when I call my Senate colleagues, even those who are nominally against the bill, it is interesting how many of them say the following to me: Man, DURBIN, why are you doing this to us? I am rolling around in my bed at night wide awake worrying about this vote and thinking about it all the time. I was walking over to the Capitol and a couple of these young kids came up to see me. I talked to them. They were very impressive.

I say to these young people, who would be eligible under the DREAM Act or hope they would be: You are the very best messengers for what we are trying to do. When people meet you and know who you are and what your

dreams are, it is hard to believe that you are a threat to the United States. You look like the hope of the United States and what you could bring to us.

Let me tell you the stories of a few of them. These stories tell you why I feel so strongly, as Senator MENENDEZ does, about this issue and why this bill is so important.

Meet Gaby Pacheco. Gaby was brought to the United States from Ecuador at the age of 7 so she certainly had little or no voice in her parents' decision to come here. Here she is pictured in her junior ROTC class which I think is the next chart, her drill team class. She is in the back row on the far right. She was the highest ranking junior ROTC student in her high school in Miami and she received the highest score in the military aptitude test. The Air Force tried to recruit her, but she was unable to enlist because she has no legal status in the United States. Let me tell you what she has done since she couldn't enlist in the Air Force. She has earned two associate degrees in education and is currently working on her BA in special education. She has served as the president of her student government and president of Florida's Junior Community College Student Government Association. Her dream in life is to teach autistic children.

Do we need more teachers of autistic children in America? We certainly do. But she can't do that because she is undocumented.

Gaby was one of four students who walked all the way from Miami, FL to Washington, DC, 1500 miles. This wasn't a little day hike. They came here because they believe in the DREAM Act, and they wanted to let the people in Washington know how much they believed in it. Along the way these four students were joined by hundreds of supporters who came out of villages and towns and walked with them for miles to show their solidarity in this effort.

Meet Benita Veliz. Benita was brought to the United States by her parents in 1993 at the age of 8. She graduated as valedictorian of her high school class at the age of 16. She received a full scholarship to St. Mary's University in Texas. She graduated from the honors program with a double major in biology and sociology. She wrote her honors thesis about the DREAM Act. Benita sent me a letter recently, and I want to read what she said:

> I can't wait to be able to give back to the community that has given me so much. I was recently asked to sing the national anthem for both the United States and Mexico at Cinco de Mayo community assembly. Without missing a beat, I quickly belted out the Star Spangled Banner. I then realized that I had no idea how to sing the Mexican national anthem. I am American. My dream is American. It is time to make our dreams a reality. It is time to pass the DREAM Act.

Benita, how can we say no?

Now meet this young man. His name is Minchul Suk. He was brought to the United States from South Korea by his parents in 1991 when he was 9 years old. He graduated from high school with a 4.2 GPA. He graduated from UCLA with a degree in microbiology, immunology, and molecular genetics. With support from the Korean-American community, he was able to graduate from dental school. He has passed the national boards and licensing exam to become a dentist, but he can't obtain a license because he is not legal. Despite coming here at the age of 9, he is not legal.

He sent me a letter recently. Here is what he wrote:

> After spending the majority of my life here, with all my friends and family here, I could not simply pack my things and go to a country I barely remember. I am willing to accept whatever punishment is deemed fitting for that crime; let me just stay and pay for it. . . . I am begging for a chance to prove to everyone that I am not a waste of a human being, that I am not a criminal set on leeching off taxpayers' money. Please give me the chance to serve my community as a dentist.

In Rock Island, IL, my wonderful home State, we have a great clinic for poor people. I went and visited a couple months ago. I said: What do you need? They said: We need a dentist. These poor people don't have a dentist. Do we need dentists in America? You bet we do. We need Minchul Suk. To think when you think he says: ''I am willing to accept whatever punishment is deemed fitting for [my] crime.'' What was his crime? Being brought to the United States at the age of 9? Graduating from UCLA with a degree in microbiology, immunology, and molecular genetics? Taking the boards when he knew he couldn't become a dentist? Is that a crime? I don't think so. Most Americans wouldn't see it that way.

This is Mayra Garcia. This wonderful young woman was brought to the United States at the age of 2. She is 18 now. She is president of the Cottonwood Youth Advisory Commission in her hometown of Cottonwood, AR. She is a member of the National Honor Society, and she graduated from high school last spring with a 3.98 GPA. I am sure the Presiding Officer had a better GPA, but I didn't. Mayra just started her freshman year at a prestigious university in California.

In an essay about the DREAM Act, she wrote:

> From the time I was capable of understanding its significance, my dream was to be the first college graduate in my immediate and extended family. . . . College means more to me than just a four-year degree. It means the breaking of a family cycle. It means progression and fulfillment of an obligation.

Here is what she told me about growing up in the United States:

> According to my mom, I cried every day in preschool because of the language barrier. By kindergarten, though, I was fluent in English. . . . English became my way of understanding the world and myself.

Mayra Garcia, like all DREAM Act students, grew up in America. America is her home. English is her language. She dreams in English about a future in this country that she won't have without the DREAM Act.

I want you to meet Eric Balderas. Eric's mom brought him to the United States from Mexico when he was 4 years old. He was valedictorian and student council president at his high school in San Antonio, TX. Eric just began his sophomore year at Harvard University. I met this young man. He came to my office. He is majoring in molecular and cellular biology. He wants to become a cancer researcher. He couldn't do it without the DREAM Act. Do we need more cancer researchers in America? You bet we do. Is there a family in America that hasn't been touched by cancer? We want his talent. We need his talent. Why would we send him away? That is what the DREAM Act is all about.

Here is another great story. These are all good, but they keep getting better. This is Cesar Vargas. This young man is amazing. He was brought to the United States by his parents when he was 5 years old. When he was in college, Cesar tried to enlist in the military after 9/11. He went into the recruiter angry that people were attacking the United States and said: Sign me up. I want to go in the Marines. They said: What is your status?

Well, I am undocumented, but I have been here since I was a little kid, and I am willing to leave college to join the Marine Corps.

They turned him away. Today he is a student at the City University of New York School of Law where he has a 3.8 GPA. He founded the Prosecutor Law Students Association at his school and did an internship with the Brooklyn District Attorney's office. He is fluent in Spanish, Italian, French, and English, and he is close to mastering Cantonese and Russian. He is a talented man. He has received lucrative offers to go to work for corporate law firms outside the United States where his citizenship status will not be an issue. But his dream is to stay in the United States and still enlist in the military as a member of the Judge Advocate General's Corps. Without the DREAM Act, Cesar has no chance to live his dream of enlisting in the United States military serving our Nation.

This is David Cho. David's parents brought him to the United States from South Korea 10 years ago, when he was 9. Since then, David has been a model American. He had a 3.9 GPA in high school and is now a senior at UCLA where he is majoring in international finance. As you can see, he is the leader of the UCLA marching band. You might see him on television at half time. David wants to serve in the Air Force. If the DREAM Act doesn't pass, he will not get that chance.

Here is another great story: Oscar Vazquez. Oscar was brought to Phoenix, AR by his parents when he was a child. He spent his high school years in junior ROTC and dreamed of enlisting in the military. Here he is in his uniform. But at the end of his junior year,

a recruiting officer told Oscar that he was ineligible for military service because he was undocumented. He entered a robot competition sponsored by the National Aeronautics and Space Administration. Oscar and three other DREAM Act students worked for months at a storage room in their high school to try to win this contest. They were competing against students from MIT and other top universities. Oscar's team took first place. Here is Oscar today.

Last year he graduated from Arizona State University with a degree in mechanical engineering.

Oscar was one of only three ASU students who were honored during President Obama's commencement address.

Do we need a mechanical engineer who won a national robot competition to be part of the future of America? You bet we do. Oscar needs his chance.

The last person I will refer to here is Tam Tran. As shown in this picture, this is a lovely young woman, but a sad story. Tam was born in Germany and was brought to the United States by her parents when she was only 6 years old. Her parents are refugees who fled Vietnam as boat people at the end of the Vietnam war. They moved to Germany, and then they came to the United States to join relatives.

An immigration court ruled that Tam and her family could not be deported to Vietnam because they would be persecuted by the Communist government. And the German Government refused to accept them.

Tam literally had no place to go, no country. So she grew up here. She graduated with honors from UCLA, with a degree in American literature and culture. She was studying for a Ph.D. in American civilization at Brown University when earlier this year she was tragically killed in an automobile accident.

Three years ago, Tam was one of the first Dreamers to speak out and testify before the House Judiciary Committee. This is what she said:

> I was born in Germany, my parents are Vietnamese, but I have been American raised and educated for the past 18 years. . . .Without the DREAM Act, I have no prospect of overcoming my state of immigration limbo; I'll forever be a perpetual foreigner in a country where I've always considered myself an American.

In 2007, the last time the Senate voted on the DREAM Act, Tam was sitting right up there in that gallery. That day, the DREAM Act received 52 votes, a majority of the Senate. But under our rules, you need 60.

After the vote, I met with her and other students. Tears were in her eyes because her chances just basically had not been fulfilled. She was hopeful. She talked about the need to pass the DREAM Act so she would have a chance to contribute more fully to this country, the home she loved so much.

She will not be here for the vote tomorrow because we lost her in that car accident. But I remember her, and I remember others who are here tonight who understand the importance of this bill. It is not just another exercise in the Senate of legislative authority. It really is an opportunity to give young people like those I have just introduced to you a chance.

Mr. President, it is going to be hard tomorrow. I have been on the phone. I cannot tell you how many of my colleagues have said: I know it is the right thing to do, but it is so hard politically. We know we are going to be accused of supporting amnesty. We know our opponents will use it against us.

I understand that. I have not always taken a courageous path in my own votes, so I am not going to hold myself out as any paragon of Senate virtue. But I just ask each and every one of my Senate colleagues to think about this for a moment. How many chances will you get in your public life to do something like this—to right a wrong, to address an injustice, to give people a chance to be part of this great Nation?

I am a lucky person. My mom was an immigrant to this country. She was brought over here when she was 2 years old. In her time, she might have been a DREAM Act student. She got to be a citizen of the United States. She was naturalized at the age of 23, after she was married and had two kids.

Before she died, I asked her once if I could see her naturalization certificate. She went in the other room, and a minute later came out with it in a big, brown envelope. I pulled it out, and there was a picture of my mom 60 years before. A little piece of paper fluttered to the floor. I picked it up and said: What's this, mom? She said: Look at it. It was a receipt that said: $2.50. She said: That is the receipt for my filing fee that I had to file to become a citizen. And I thought, if the government ever came and challenged me, I would have proof that I paid my filing fee. That was my mom. That immigrant woman came to this country and made a life and made a family and brought a son to the Senate.

These stories are the same. The opportunities are there with these young lives to make this a better nation. The opportunity is there if Members of the Senate can summon the courage tomorrow to vote for the DREAM Act and to make these dreams come true.

I would like at this point to yield to my colleague and friend, Senator BOB MENENDEZ.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. MENENDEZ. Mr. President, first of all, I want to send a heartfelt thanks to the distinguished Senator from Illinois, who has been spending nearly a decade trying to make the dreams of tens of thousands of students a reality. This is really an American dream. This is American as anything else. If there is a person who has fought incredibly hard to make that dream a reality, it is DICK DURBIN. So I am thrilled that before I came to the Senate, while I was arguing for this very same passage in the House of Representatives, there was a DICK DURBIN here in the U.S. Senate raising the voice of all of those who have no voice, trying to call upon the conscience of the Senate to do what is morally right—morally right.

So I salute him, regardless of the vote tomorrow. I hope it is a measure that passes and makes a dream a reality, but he really deserves an enormous amount of credit.

Mr. President, I rise in what will probably be the last opportunity before the vote tomorrow—I do not know who is watching. I do not know how many of our colleagues are tuned in. I hope they are. I am not even speaking to a broader audience. In my mind, this is about 100 Members of the U.S. Senate who have an opportunity to cast a vote that ultimately can transform the lives of tens of thousands of young people who call America their home.

For years, as young people—so many of them who Senator DURBIN showed pictures of; and those are only a fraction of the stories we could tell—they have stood in classrooms in America and pledged allegiance to the flag of the United States proudly. The only national anthem they know is the ''Star-Spangled Banner,'' which they sing proudly. The only way of life they have known is an American way of life. They have understood what the rules are, and they have lived by those rules in an exemplary fashion. I would be proud to call any one of those young people my son or daughter.

This is an opportunity for the Senate to do what is right with the vote that takes place tomorrow. The House of Representatives has done what is right. It has passed this legislation. It is time for us to do the same. The time has really come to harness and develop the talent that all of these young people have to offer our country. And they possess some enormous skills and intellect.

We have seen it. It is intellect that could be put for America, at a time in which we are more globally challenged than ever before, where the boundaries of mankind have largely been erased in the pursuit of human capital for the delivery of a service or the production of a product. We are globally challenged, so we need to be at the apex of the curve of intellect—the most highly educated generation of Americans the Nation has ever known.

These young people—valedictorians, salutatorians, engineers, scientists, doctors—all have the opportunity to help America achieve even greater greatness. That is what their dream is all about. That is what an American dream is all about.

The time has come to allow thousands of young men and women, who often are kept from enrolling in colleges, even though they are accepted—this is not about giving anyone anything they cannot achieve. They have to, obviously, on their own merit, be able to gain acceptance to a college or university or on their own merit and

desire be able to serve in the Armed Forces of the United States.

That passion is there. The first soldier of an American uniform to die in the war in Iraq was LCpl Jose Gutierrez, a Guatemalan who, at the time of his death, wearing the uniform of the United States, was not even a U.S. citizen at the time. He was a permanent resident. He was willing to serve his country and die for it.

It is an opportunity for these young people, who, in many ways, have lived in the darkness, and, who, through no choice of their own—if we said these young people came to this country of their own volition, of their own choice, of their own determination, maybe—maybe—we might look at it differently. They were brought here by parents at ages in which they had no knowledge and no choice of what their path would be. They were brought here by parents fleeing dictatorships, fleeing oppression, sometimes fleeing dire economic circumstances. But, above all, they made no choice in that. They did not know they were violating any rules, regulations, or laws. They came because their parents brought them.

How many times have I heard in this Chamber that the wrong of a parent should not be subscribed to a child? Yet that is what all those who oppose the DREAM Act are saying: The child must pay for the choices their parents made. Is that an American value? I think not. I think not.

We have an opportunity to have them make full contributions to the American economy through their ingenuity, through their skills, through their hard work. That is what the DREAM Act has always been about.

I will tell you one story of many that are here. It is of a young man, 20-year-old Piash Ahamed, who, as a child, emigrated with his family from Bangladesh to New Jersey.

After his parents lost their bid for asylum, through no fault of his own, he became an undocumented immigrant. He has been lobbying for passage of the DREAM Act ever since. He said to me:

New Jersey—

And this is so true. It is beyond New Jersey. It is all of these students—

New Jersey has already invested so much money in me, and other undocumented students that are living here, when we went to elementary, middle school and public high school. . . . It doesn't really make any sense for them not to give us an opportunity to finish and actually pay back to America and contribute more through our talent, through our taxes, through so many different ways.

The Dream Act is for people such as Piash Ahamed. It is about helping him and creating the best educated American workforce possible—creating future doctors, future teachers, future businesspeople, future nurses, investors, and entrepreneurs. They are an economic resource we cannot afford to waste.

I bristle when I listen to some of my colleagues who have come to the floor and, right away, whenever we are talking about anything that relates to immigration, slap the name ''amnesty'' on it, and it becomes something that cannot be touched.

It is not amnesty. Amnesty is when you do something wrong and you get something for nothing. These young people are not going to get something for nothing. They are going to have to serve the Nation. They are going to have to serve the Nation through their intellect, their ingenuity, their ability to produce for America or they are going to serve the Nation in the Armed Forces of the United States, willing to risk their lives—their lives—like LCpl Gutierrez did in Iraq, when he lost his life for the country they call home, for the country they believe in.

They are going to have to qualify. They are going to have to pay tuition. They are going to have to pay taxes. They are going to have to pay fees. As a matter of fact, I am sure the distinguished Senator from Illinois knows that the House version we are voting on is ultimately saying: You have to pay a fee.

As a matter of fact, not only is it not a cost to the government, it is a surplus to the government, according to the Congressional Budget Office. It is going to produce revenue, already, just by the mere act of giving them the possibility of realizing their dream. In essence, they are going to have to pay for their dream. But they are willing to do that, and it is going to create a revenue stream for the Nation.

That is not amnesty. It is not amnesty to wear the uniform of the United States, risk your life. It is not amnesty to give your intellect. And even then, there are those who say: Well, you are going to give them a pathway. Well, that pathway has been elongated. It is incredibly long.

I know some of my colleagues like to come here and say, well, you are going to permit something that they call chain migration. I used this during the last time we had immigration debates. Chain migration. You know when you want to dehumanize something, you don't talk about people. You don't talk about children. You create a sense of something that people can say: Oh, it is chain migration. We don't feel too compassionate about this if we can make it into a dehumanized sense because if this person gets status, then they will be able to claim their relative, and that relative will be able to claim their relative, and so there is this sphere.

These students are not going to be able to do that, certainly not under the bill we are considering a vote for tomorrow. So there is none of that. Let's dispel that too.

At the end of the day, the DREAM Act is a true test of what America is all about: an opportunity to earn your way toward status, to move from being undocumented through no fault of your own to have a temporary status that I think will last a decade before you can do anything else. You have to have a lot of proof of your mettle during that period of time; that you are worthy of becoming a permanent resident of the United States—after a decade. You have to be of good moral character. You have to go and prove yourself even more by successfully attending college or completing honorable military service, even in order to appease those who have raised every bar so this would not be considered—calling the legislation amnesty, which it is not because amnesty is something for nothing.

I have said before, there are even further restrictions that have lowered the age cap as to who can qualify. It keeps intact the ban on instate tuition. I don't like that. I think if you can ultimately be accepted to a college or university and you are living in that State—but all right, for those who said that was a problem, well, now there is a ban on instate tuition. You are going to have to pay out-of-State tuition. It prohibits these students from obtaining Pell or other Federal grants and creates a conditional nonimmigrant status that doesn't grant legal permanent residency for at least a decade.

At the end of the day, the DREAM Act is an ultimate test of American values as a nation of immigrants. I often think about people who serve in this Chamber. The only people who can actually make a claim of being not the descendant of immigrants are Native Americans. After that, everybody at some point in their history was an immigrant.

There has been expansive support for the DREAM Act, and it has been bipartisan support. Colin Powell, former Chairman of the Joint Chiefs of Staff of the United States, former Secretary of State, he supports the DREAM Act.

Defense Secretary Robert Gates, who is the Defense Secretary now in this administration, but a Republican held over by President Obama and asked to serve because of his great leadership, he has recommended in the 2010 and 2012 strategy plan for the Defense Department's Office of the Under Secretary for Defense and Personnel Readiness to help the military shape and maintain a mission-ready, All-Volunteer Force, he wants to see the DREAM Act passed.

David Chu, the Under Secretary of Personnel and Readiness at the Department of Defense during the Bush administration said:

Many of these young people who may wish to join the military have the attributes needed—education, aptitude, fitness, moral qualifications. In fact, many are fluent in both English and their native languages.

We have seen the challenges that we have globally from far off countries where our enemies are not simply armies of a country but of individuals. The languages that could be brought to bear to help us in our national security and in our defense intelligence, in our abilities to understand those entities, all from an American perspective, though, all of these students have that opportunity to do that for America.

Moreover, university presidents, respected education associations, leading Fortune 500 businesses such as Microsoft support this legislation and have called upon the Senate to pass the DREAM Act. In fact, in my home State of New Jersey, the presidents of 11 of New Jersey's community colleges, in consultation with their board of trustees, sent a letter to the New Jersey Congressional Delegation saying help pass the DREAM Act. The letter was signed by the presidents of community colleges in Bergen, Burlington, Camden, Cumberland, Essex, Hudson, Mercer, Middlesex, Passaic, Sussex, and Union Counties.

One of the vice chairmen of the board of trustees at one of the community colleges said in an article:

Although the DREAM Act is Federal legislation, many of us felt it was important the State's community colleges take a stand as the system is often the first stop for many of these students whose ineligibility for State or Federal aid limits their higher education choices. Our role is to educate our students. Our role is not to engage in overall immigration policy.

They want to see the DREAM Act become a reality.

I received a letter from Rutgers University's president, a State university, Richard McCormick. He said:

Young people who have grown up in New Jersey, earned good grades in our high schools, and taken an active part in civic life; however, because of their undocumented status, cannot take the next steps towards a rewarding future.

It is a future that would help my State and, as those stories represented, help States across the country.

In fact, to my Republican colleagues, I would remind them that former Arkansas Governor and Presidential candidate Mike Huckabee explained the economic sense of allowing undocumented children to earn their citizenship. He said:

When a kid comes to this country and he's 4 years old and he had no choice in it——

His parent made that choice——

he still, because he is in this State, it is the State's responsibility—in fact, it is the State's legal mandate—to make sure that child is in school. So let's say that child goes to school. He is in school from kindergarten through the 12th grade. He graduates as valedictorian because he is a smart kid. He works his rear end off and he becomes the valedictorian of the school. The question is: Is he better off going to college and becoming a neurosurgeon or a banker or whatever he might become, and become a taxpayer, and in the process having to apply for and achieve citizenship, or should we have him pick tomatoes? I think it is better if he goes to college and becomes a citizen.

That is Mike Huckabee.

So I will say this to my friends and many of my colleagues. Not every State is like New Jersey where we have a rich history of immigrant populations that have contributed enormously. Some of the people we have serving our country today came from those backgrounds. As a matter of fact, some of them, their lineage comes through people who came into this country undocumented. Yet they have risen to prominence and helped contribute to America. Some of them are some of our outstanding military leaders.

So this is not about amnesty. You have to earn it. This is not about chain migration. You would not be able to claim anyone at all. In my mind, this is all about family values. I hear a lot about that on the Senate floor. This is about an opportunity to take these children who are part of the American family and give them their opportunity to help America succeed.

We wouldn't be in this challenge we are in if our Republican colleagues weren't insisting on a supermajority via the filibuster. There are enough votes in the Senate. A majority of the Senate is willing to vote to make this dream come true. But since our Republican colleagues have used the rules of the Senate to require not a simple majority of 51 of 100 Senators but to require a supermajority of 60, we are in this predicament; otherwise, this bill would pass tomorrow, be sent to the President, and I know the President would sign it, and the dreams and the aspirations, but most importantly the intellect, the service to country, the service to the Armed Forces would begin to become a reality, all to the Nation's benefit.

So we are here in this set of circumstances because our Republican colleagues have insisted on a supermajority instead of a simple majority that would clearly pass.

Now, for some who don't have immigrant communities such as Illinois or New Jersey, maybe their populous doesn't quite understand the value. Maybe they don't have an understanding of the great vitality and the heartfelt sense of these young people being as American as anyone else. I understand that. We come here by virtue of being elected from a State, and we certainly advocate for the interests of our States. But we are collectively called upon to serve the interests of the Nation. This is an opportunity to serve the interests of the Nation.

The final point I will make is, those are all policy arguments. I hope there will be some profiles in courage tomorrow, individuals who may see this as a political risk. Every vote can be ultimately determined as a political risk. As a matter of fact, for those who believe this is a political risk and voted for the Defense authorization bill to move forward, the majority leader made it very clear when we had that vote in which nearly every Democrat of the Senate voted in favor, he made it very clear there were going to be two amendments that were going to be offered in that bill: don't ask, don't tell and the DREAM Act.

So the 30-second commercial is there already. It is there. Anyone who thinks that somehow voting against the DREAM Act tomorrow is going to save them from that 30-second commercial, they are wrong. It is there. I have to be honest with my colleagues.

As the only Hispanic in the Senate at this point—although this is not uniquely a Hispanic issue. As we can see, these children come from all over the world. The young man I mentioned from New Jersey is from Bangladesh. But the Hispanic community is looking at this vote—40 million. They are the ones who are already U.S. citizens. You may say: Well, what do they care? They understand what this vote is all about. It is not just about these children, which should be enough. They understand this vote is about them, how they are viewed in this country, how they are perceived in this country, whether everything they have done—you know, I bristled when I listened—which is why I wrote my book, ''Growing American Roots,'' because I was tired of seeing all these pundits on the shows who suddenly think that all Hispanics just came here yesterday. We all just crossed the border in an undocumented fashion, and we are all takers instead of givers to the society.

Well, the oldest city in America, St. Augustine, FL, was founded by a person named Pedro Menendez. I am looking at a title search to see if I have any relationship for property in St. Augustine, FL. But it is the oldest city in America, Pedro Menendez, the Governor of Louisiana before Louisiana was a State, who led an all-Mexican division to help stop the British advance on George Washington during the Revolutionary War.

Admiral David Farragut, if you come with me to Farragut Square, I think most Americans wouldn't know that Farragut Square is actually named after ADM David Farragut, a Spaniard who, during the Revolutionary War, led the naval forces on behalf of the Union and coined the famous American phrase: ''Damn the torpedoes, full speed ahead,'' a Spaniard.

The wall of the Vietnam Memorial is loaded with names of Hispanics who gave their lives for this country.

The first soldier to fall in Iraq was LCpl Jose Gutierrez, a Guatemalan who wasn't even a U.S. citizen. The all-Puerto Rican division during the Korean War was one of the most highly decorated in the history of the United States.

You can't find a Major League baseball team without a good part of its roster being Latino. You can't turn on the TV without watching Eva Longoria in ''Desperate Housewives.''

You can't go to the movies and not see someone such as Jennifer Lopez in one of its leading roles. You can't turn on music—and the list goes on and on.

This community understands what this vote is all about. I don't know how any party can aspire to be the majority party with the largest minority in the country growing exponentially, as we will see by the next census, and continuously take votes and cast aspersions upon a community and think that it can achieve political success.

This DREAM Act is about as much motherhood and apple pie as you can

get in the immigration debate. It is about children who didn't have a choice but have made the most of the life they were presented. They have done incredible things in the country they call home—the one they sing the ''Star Spangled Banner'' about, pledge allegiance to, and the one they are giving it all to.

So this community is going to be watching tomorrow's vote. I certainly hope that when they watch that vote, they are going to see one of the finest moments of the Senate doing what is right—not just by these children but doing what is right by this country—fulfilling our creed. That is what tomorrow's vote is all about. That is what I hope each and every Senator will think about as they cast it. That is the opportunity we have.

This is not just about the dreams of these young people. This is about the dreams that have gone from generation to generation and have made America the greatest experiment and enterprise in the world. That is what tomorrow's vote is all about, Mr. President. I hope we will cast a vote that will make that dream come true.

With that, I yield the floor.

Mr. DURBIN. Mr. President, I thank my colleague and friend, Senator MENENDEZ, for that great speech. I know it was heartfelt. I thank him for waiting late this evening to come and those who have joined us because they understand that though the hour is late, our time is short before we cast this historic vote.

As I mentioned earlier, as I called my colleagues today, some of whom are on the fence, not sure, they said: I toss and turn thinking about this. I hope they toss and turn all night tonight and wake up tomorrow with a smile and determination on their face to do something right for America, to make sure they will have a good night's sleep Saturday night because they have been able to fulfill the dreams of so many young people who are counting on them tomorrow to rise above their political fears and to really join ranks with so many in this Chamber who, through its history, have shown uncommon political courage in moving this Nation forward in the name of freedom and justice.

Mr. MENENDEZ. If my colleague will yield, I am sure the distinguished Senator from Illinois knows from his long political history that when you toss and turn, you know what is right. You don't toss and turn if you have a commitment and conviction of the choice you are going to make. You toss and turn when you know what the right choice is, but for other reasons you may not be willing to make that choice.

Mr. DURBIN. I think the Senator is correct.

Mr. President, I don't know what the most effective way is in Washington to lobby a bill, but I will tell you that there are no more effective spokesmen and spokeswomen for the DREAM Act than the young men and women who have been walking the Halls of the Senate over the last several weeks, months, and years. They wear caps and gowns, as if they are headed for a graduation, which is what they want to do. They have made the case in a way that I could not on the floor of the Senate because of their determination and the dignity they have brought to us.

Stick with us, I say to each one of them. Don't give up. Tomorrow, we are going to try our very best to rally the votes we need because our cause is right and our time is now.

Mr. LEAHY. Mr. President, the Senate will soon vote on whether we should debate the Development, Relief, and Education for Alien Minors Act, or the DREAM Act. I have been a cosponsor of this important legislation since it was first introduced in the Senate in 2001, and I commend Senator DURBIN and Senator LUGAR for their hard work in advancing the DREAM Act this year. At the very least, we should have a debate about this important legislation.

Enacting the DREAM Act will serve important priorities for our country and for our military. Under current law, when undocumented students graduate from high school, they typically have no opportunity to gain lawful immigration status, a circumstance that often prevents them from pursuing higher education or making other meaningful contributions to our Nation. The bill recognizes the accomplishments of successful students who want to serve our Nation through military service or by obtaining degrees in higher education.

The DREAM Act offers a path to lawful immigration status to individuals who are currently undocumented, but who were brought to the United States at a young age by their parents. The bill is specifically drafted to assist those students who did not act on their own volition to enter the United States unlawfully. In landmark Supreme Court cases like Plyler v. Doe, the Supreme Court held that we should not punish children for the actions of their parents. Yet to deny these students a path to lawful status and eventual citizenship does just that.

In December 2009, the Department of Defense cited passage of the DREAM Act as an important strategic goal for 2010–2012. The Pentagon believes that the DREAM Act has potential to expand our all-volunteer military without decreasing the quality of recruits. It is supported by General Colin Powell and many others.

Despite numerous good faith gestures from Democrats in the Senate to work with Republicans on immigration issues, we have been met with silence at best, and obstructionism at worst. Nonetheless, the version of the DREAM Act that we consider today has been modified to address concerns raised by those who have falsely labeled the DREAM Act as a form of amnesty. The Congressional Budget Office estimates that H.R.6497 will reduce deficits by approximately $2.2 billion over the years from 2011–2020.

While the cost saving in the new version of the DREAM Act is welcome news, I regret that the students and soldiers who benefit from this bill will now have to wait for 10 years to become eligible to apply for lawful permanent residence. They will have to apply for conditional status twice during that 10 year period and pay more than $2,500 in fees. I believe that American values call for more generous treatment of individuals who serve our Nation, especially those who are willing to fight on behalf of our Nation overseas. At various points in the past 10 years, several Republican Senators voted in favor of much more generous versions of this bill. I regret that so few Republicans will support this pared down version of the DREAM Act today.

I wish that we could have achieved bipartisan support in the 111th Congress to enact a comprehensive immigration reform bill. Even without that bipartisan commitment, we should do all we can. The AgJOBS bill, the Uniting American Families Act, the Refugee Protection Act, and the improvement of our immigrant investor program are all reforms that will make our immigration system stronger and more effective. I will continue to work with Senate leadership and Senators from both sides of the aisle to accomplish our shared goals for the broader reform of our Nation's immigration system.

The DREAM Act is a critical step to reforming our immigration system and enables a well-deserving group of young people to better serve our country. I am glad to pledge my full support, and I encourage Senators on both sides of the aisle to do the same.

Mr. BINGAMAN. Mr. President, I rise today to speak in strong support of the DREAM Act.

The DREAM Act provides individuals who were brought to the United States as young children, at the age of 15 or younger, with the opportunity to legalize their status if they work hard, stay out of trouble, graduate high school, and eventually go to college or enlist in the Armed Forces.

Passage of the DREAM Act is the right course of action for a variety of economic and humanitarian reasons. But it also makes sense in terms of strengthening our military's ability to attract talented recruits.

For almost a decade now our Nation's military forces have been deployed in Iraq and Afghanistan. We rely on the courage, commitment, and dedication of an all volunteer force to fill the ranks of the military services. With the stress and hardship of repeated deployments and wartime service, the military has often struggled to maintain appropriate recruitment levels and standards.

According to the Department of Defense, enacting the DREAM Act would help address this issue. The fiscal year

2010–2020 Strategic Plan for the Defense Department provides that passage of the DREAM Act would help ensure we maintain a mission-ready all volunteer force. As explained by then Under Secretary of Defense David Chu in testimony before the Senate Armed Services Committee:

many of these young people may wish to join the military, and have the attributes needed—education, aptitude, fitness, and moral qualifications. . . . the DREAM Act would provide these young people the opportunity of serving the United States in uniform.

We need to face the reality that we have individuals living in this country who were brought here unlawfully, but at no fault of their own, who have the skills and desire to make significant contributions. Frankly, I fail to see how our Nation benefits from denying hard-working young people who have grown up in our country from becoming productive members of our society. What is the benefit of telling a high school valedictorian who has lived in the United States since the age of five that he or she can't work, pursue higher education, or serve in the military?

As a border State Senator, I understand the concerns about illegal immigration. Over the last several years we have made tremendous strides in enhancing border security, but I recognize that there is still more work to be done.

However, penalizing individuals who came to the U.S. as children at no fault of their own is not the answer. Keeping these young people from bettering their lives through education or preventing them from serving our country by enlisting in the military doesn't make our Nation stronger, more secure, or more economically competitive.

It simply deprives the Armed Forces of the ability to reach out to the many undocumented students who graduate from high school each year, and reinforces a permanent class of less-educated workers who are forced to live in the shadows and who are deprived of the chance to obtain their full potential.

Over the years I have had the opportunity to meet with some of the young people who would benefit from this legislation. Their request is quite simple—that they be given the chance to serve the country where they have grown up, to make a difference in their communities, and to better their lives. These are the values, spirit, and dedication that have made America great, and I urge my colleagues to let them earn this opportunity.

Mr. HARKIN. Mr. President, I am a strong supporter and proud co-sponsor of the DREAM Act. This narrowly tailored, bipartisan legislation, introduced in the Senate by my colleague, Senator DURBIN, and supported by 40 other Senators, would allow young, undocumented immigrants who grew up in the United States to earn legal residency by obtaining a higher education or joining the military. I have cosponsored the DREAM Act for one simple reason: It will enable these young people—who find themselves undocumented in America not due to their own actions, but due to actions of their parents—to reach their potential and contribute to a stronger, more prosperous America.

This legislation has been endorsed by the Secretaries of Defense, Homeland Security, Education, Labor, and Interior. It has been endorsed by numerous former Republican officials, including many from the Bush administration, and has been cosponsored by many of our current and former Republican colleagues here in the Senate. It is supported by colleges and universities in Iowa and across the United States, as well as religious leaders from a wide range of denominations.

The young people who would qualify under the DREAM Act came here as children. Some came here so early in their lives that they have no memory of living anywhere other than in the United States. Despite the actions of their parents, they are just as American as you and I. Their stories in letters to my office are heartbreaking. If it weren't for the actions of their parents, they would be citizens no different from our own sons and daughters.

These children graduate from high school with honors. They play on our school soccer, football, and basketball teams. They are in the Junior ROTC. They spend time with their friends—friends who may be our own sons and daughters. They want to work after-school jobs, if they were only allowed to work legally. They want to attend college, if they were only allowed to get the student loans necessary to afford it. They want to serve our country, if only they were allowed to enlist.

Yet there are still some who wish to punish these children for the actions of their parents. They say that children who have no control over the decisions of their families must pay the same price as the adults. I am frankly at a loss as to whether there is any other crime that could be committed where an innocent child would be treated as an accessory to an adult, or where the penalty for a child with no ill intent is the same as for an informed adult.

The young men and women who would benefit from this legislation are some of the finest, most upstanding people living in the United States. With an education, they can contribute their great talents to our economy, driving innovation and creating jobs. They are committed to the country they consider home, willing to serve under the American flag, willing to fight and die for our country at a time when our military is stretched perilously thin. I want to encourage these energetic, motivated and dedicated young men and women, not maintain the status quo which casts a dark shadow over them.

I would also like to address some common misunderstandings about who would qualify to obtain legal residency under the DREAM Act. These young people would have had to come to the U.S. by the age of 15, display good moral character, pass thorough criminal and security clearances, and have lived in the United States for at least 5 years. Only those currently under 30 years of age would be eligible. Legal permanent status would not be conferred until after 10 years. They could only sponsor parents or siblings, and only do so after 12 years have passed, and only after any member of their family who has entered the United States illegally has left the United States for 10 years. Every precaution has been taken to prevent the opportunities afforded by the DREAM Act from being abused.

Those who qualify under the DREAM Act would not receive any benefits that naturally born citizens receive. They would only be eligible to apply for Federal student loans that would have to be repaid in full; they would not be eligible for in-state tuition rates or Federal education grants, such as Pell grants. They would receive no preferential treatment.

I remain committed to working with my colleagues for a comprehensive solution to our Nation's broken immigration system. We must strengthen our borders, holding employers accountable if they hire illegal workers, and craft policies that are fair to American workers and taxpayers. But in the meantime, it does not make sense to prevent this small group of young people, already present in the U.S. through no fault of their own, from contributing to our Nation's security and economy.

Mrs. GILLIBRAND. Mr. President, I rise today in support of the DREAM Act. This legislation is critically important. Not only is this a humanitarian issue, but also an economic and security issue. In order to compete in a 21st century world, we must provide education opportunities to all of our students.

Our current laws unfairly penalize thousands of young adults, many of whom know only the United States as home, denying them the opportunity to achieve the American dream. Current law paralyzes the lives of these young people, effectively banning them from college and the military.

Former Secretary of State Colin Powell has publically advocated in support of the DREAM Act, calling it crucial to our national security and our ability to compete in the global marketplace in the coming generations. In a time when our military is strained because of demands in Afghanistan, Iraq and other places of concern around the world, we should be allowing all of our best and our brightest to serve.

The DREAM Act allows young people with good moral character who attend college or provide significant service to our military with an earned path to citizenship. These are young people who received all their education in the

United States and know only the United States as home. We need comprehensive immigration reform, but this is an instance where current law is unfairly penalizing thousands of young adults who did nothing wrong.

I want to take this opportunity to highlight the story of a young New Yorker who exemplifies the DREAM Act. Cesar Vargas was brought by his parents to the United States when he was only 5 years old. It was not his decision to come here, but he grew up in New York, graduated from high school, completed college, and is now in his final year of school at City University of New York School of Law, with a 3.8 GPA. He dreams of becoming a military lawyer after he graduates. But, he cannot fulfill his dream of serving in our military because he is undocumented. Our country would benefit from the dedication of young men and women like Cesar, who grew up as our neighbors and our children's class mates and friends—young men and women who want to serve this great nation of immigrants and give back to the country they call home.

This legislation creates opportunities for young people who did not come here on their own choosing, and ensures that they will become productive members of our society. For these reasons, I support this measure and I implore my colleagues in the Senate to vote in support of this measure, as well.

Mr. UDALL of Colorado. Mr. President, I wish to reiterate what I have long believed to be the right step to take in addressing a longstanding issue that affects young people in my State of Colorado and across this country. That step is to pass legislation known as the DREAM Act that will ensure that upstanding young adults who were brought into this country illegally by no fault of their own have the opportunity to attend college and contribute to our economy or join the military and serve our country.

Just over 3 years ago there was a large bipartisan group of Senators that understood that children who were brought to this country by no fault of their own should not be blamed for the sins of their parents. It is mind-boggling to me that we now have to struggle to get those same Members who are still in the Senate today to support that commonsense notion, which underlies the DREAM Act. I respect the decisions of my colleagues and I want to give my colleagues who have had a change of heart the benefit of the doubt, but my guess is that partisanship is what has prevailed here. I believe this because the bipartisan-approved legislation that the House of Representatives has sent us is more stringent than previous versions of this legislation that was once sponsored and supported by both Republicans and Democrats.

When you run down the list of fees, restrictions, requirements, waiting periods, and other criteria for eligibility in the DREAM Act, you begin to see that this is a robust plan to give high-achieving young people an opportunity to contribute positively to our country. Not only will individuals who were brought to this country before the age of 16 have to prove they have been in the United States for at least 5 years before applying, they will also have to show that they are in good health, pass a background check, provide biometric data, and pay fees and taxes. Only then will they be allowed to enter a ''conditional non-immigrant'' status that would allow them to pursue their education or enter the military.

During the 10 years of their conditional status, they would be ineligible for entitlement programs such as welfare, Federal education grants and would be unable to sponsor family members for immigration purposes. They would also have to remain in good standing with the law and prove that they have command of the English language and American civics. If they meet those and other requirements after 10 years, they will then have to get in at the back of the line to wait their turn for a minimum of 3 more years—for an opportunity to naturalize as U.S. citizens. That seems more than fair to me.

The DREAM Act provides a robust and fair-minded plan to help America attract bright and talented individuals to contribute to our economy and strengthen our military. As military leaders who have served under Presidents of both parties have said, this bill will strengthen our readiness by giving these young men and women the chance to join our armed services. Furthermore, studies have shown that students who can realize their full earning potential can ultimately help pump billions of dollars back into our economy. These individuals are future businessmen, scientists, and innovators that could help our economy grow. In fact, the Congressional Budget Office has determined that this legislation would even help to reduce our deficit.

The DREAM Act has been debated for several years. It is finally time for us to do what is right in this situation, put aside partisanship and support this legislation.

DON'T ASK, DON'T TELL

Mr. BINGAMAN. Mr. President, I rise today to speak in support of repealing the so-called don't ask, don't tell policy.

It has been 17 years since this misguided policy was enacted. I believed then, as I believe now, that it was wrong for Congress to legislate in this area. Prohibiting gays and lesbians from openly serving in our Armed Forces is contrary to our Nation's values and weakens our military's ability to recruit and retain competent individuals with critical skills.

By codifying a policy that reinforces discrimination, intolerance, and inequality, we established a system that is inconsistent with the rights embodied in our Constitution and the fundamental notion that a person should be judged squarely on the basis of his or her qualifications—not the color of their skin, religious beliefs, or sexual orientation.

I recently had the opportunity to visit President Franklin Roosevelt's home in New York—there was a quote that I saw that was particularly moving. In a campaign address delivered in 1940, FDR stated:

> I see an America devoted to our freedom—unified by tolerance and by religious faith—a people consecrated to peace, a people confidant in strength because their body and their spirit are secure and unafraid.

I think this quote does a good job of capturing the true strength of America—a tolerant people committed to the preservation of freedom.

The ability of a person to serve in our Nation's military should be based on his or her experience, qualifications and conduct. Since the inception of the don't ask, don't tell policy in 1993, over 14,000 gay and lesbian servicemembers have been discharged solely because of their sexuality.

We have lost decorated soldiers and those with mission critical skills, such as Arabic linguists and intelligence specialists. Aside from the loss of necessary expertise, we've also wasted hundreds of millions of dollars in taxpayer money in discharging and replacing individuals who were completely willing and able to serve our country.

The policy is also contrary to the values held by our military professionals. In testimony before the Senate Armed Services Committee, Admiral Mullen, Chairman of the Joints Chiefs of Staff, eloquently expressed this point:

> No matter how I look at the issue, I cannot escape being troubled by the fact that we have in place a policy which forces young men and women to lie about who they are in order to defend their fellow citizens. For me personally, it comes down to integrity—theirs as individuals and ours as an institution.

When a person enlists in our Armed Forces and puts his or her life in harm's way in defense of our country, they should be able to serve with honor and dignity without being asked to live a life of deception.

Secretary Gates ordered that a comprehensive review be conducted to assess the impact the repeal of the law could have on military effectiveness and to make recommendations about how a change could be implemented. The report, which was released a couple of weeks ago, surveyed thousands of active and reserve servicemembers as well as their families, veterans groups, health officials, and service academies. It is my understanding that this unprecedented report was the most comprehensive review of a personnel matter ever conducted.

The key finding from this review is that the risk of repealing the don't ask, don't tell policy to overall military effectiveness is low and that the limited disruptions that may occur in

the short-term can be addressed adequately through leadership, education, and training. In short, the Armed Forces are capable of accommodating this change without hampering unit cohesion, readiness, recruiting, and combat operations.

There will never be complete unanimity when it comes to these types of controversial issues. However, the study found that 70 percent of military personnel believed that repealing the law would have positive, mixed, or no effect on them doing their jobs—only 30 percent anticipated that there would be negative consequences. And it is particularly telling that 92 percent of troops who served with a gay or lesbian servicemember believed their ability to work together was very good, good, or neither good or bad.

We've had almost two decades to evaluate the success or failure of this policy and the legislation we are debating takes a very judicious approach. The bill stipulates that the repeal of the policy will not take effect until 60 days after the President, Secretary of Defense, and Chairman of the Joint Chiefs of Staff make certain certifications. In particular, that sufficient implementation procedures are in place to ensure the repeal could be carried out in a manner consistent with standards of military readiness, effectiveness, unit cohesion, and recruiting and retention. In my view this is a very reasonable approach.

The reality is that it is no longer a question of whether this policy should be repealed, it is a matter of how it should be and in what matter. If Congress fails to act, it is very likely that the courts will. If this occurs, implementation may be more difficult and the changes may occur in a more haphazard manner as cases move slowly through the courts.

Keeping this law in place doesn't make us any safer and it is inconsistent with our Nation's commitment to equality. I urge my colleagues to support the repeal of this ill-advised policy.

TRIBUTES TO RETIRING SENATORS

BYRON DORGAN

Mr. ENZI. Mr. President, at the end of each session of Congress it has long been a tradition in the Senate to take a moment to express our appreciation and say goodbye to those who will not be returning in January for the beginning of the next Congress. One of those I know I will miss who will be heading home to North Dakota to begin the next chapter of his life is BYRON DORGAN.

BYRON was raised in the ranching and wheat growing region of North Dakota in the town of Regent. Looking back, he has often said that he graduated in the top 10 of his high school class. ''There were nine of us,'' he then adds with a smile.

Growing up in a community that was so heavily involved in agriculture gave him an early taste of what rural life is all about. He experienced firsthand the importance of farming to his home State and the hard work associated with taking good care of the land and the resources it provides. He saw the way people who live on farms schedule their days—working from sunrise to sunset, going from task to task knowing there was always more work to be done than there were hours in the day. It was a lesson about the true meaning of hard work that would stay with him throughout his life and help direct his efforts and his service in the Senate.

One issue we shared an interest in and worked together on for years has been sales tax fairness. BYRON took his experience as a former tax administrator and I used my background as an accountant to focus our work on the issue. BYRON's understanding of our tax system and how it must work efficiently to provide the government with the resources that are needed to fund its operations was very impressive. That should come as no surprise to anyone since he had been appointed the tax commissioner of North Dakota at the age of 26, which made him the youngest constitutional officer in the State's history.

We also worked together on the Freedom to Travel to Cuba Act. We hope to change our current policies there because for 40 years they have failed to bring about the results we hope to achieve. It was clear to us both that if we wanted to bring our democratic ideas to Cuba to effect the changes we wanted to achieve, we had to find another way to do it. Fortunately, BYRON's leadership style and his speaking ability were again a great addition to the effort and helped to win us the support we needed to get things rolling.

Looking back on these and other issues, it is clear that BYRON's career has been guided by the lessons he learned as he was growing up about the importance of hard work and always giving your best to the task at hand every day. That is why you will always find him fighting for the needs of rural America and promoting a sense of fairness and equity in our tax system. There can be little doubt that he has accomplished a great deal during his service in the Senate. He has been a champion for rural America, and farmers and ranchers not only in North Dakota but all across the country have been grateful for his efforts and the results he has been able to achieve.

I don't know what BYRON has planned as he begins the next chapter of his life, but I am certain we have not heard the last from him and his wife Kim. They have been a team over the years as they have worked together for the people of North Dakota. They have made a difference, and they have a great deal to show for their efforts.

In the coming session, I know we will all miss BYRON's effective way of speaking and addressing the concerns of the people of his State. He has a great sense of humor, and his ability to present the case for ''his side'' has won many an argument—some of them before they had even begun.

Good luck, BYRON. Keep in touch. We will always be pleased to hear from you.

GEORGE VOINOVICH

Mr. President, at the end of each session of Congress, as is our tradition, we take a moment to say goodbye and express our appreciation to those Members who will be returning home at the end of the year. I know we will miss them and the contributions they have made over the years to the debates and deliberations they have participated in on the Senate floor and in committee. One retiring Member I know I will especially miss is GEORGE VOINOVICH.

If ever it could be said of someone that they have never lost touch with their roots, it would be said of GEORGE. GEORGE was raised on Cleveland's east side, and he still lives there. His dad was an architect, and his mother was a schoolteacher. For his own part, until he was in his teens, GEORGE was determined to be a doctor. As he grew up, he found that he didn't get along very well with science, so right about then his direction and his focus changed. Fortunately for Cleveland and all of Ohio, GEORGE then decided that someday he would run for mayor and for Governor, which put him on the path that brought him years later to the U.S. Senate.

Those were big dreams for someone who up until then had only his success as high school class president to show on his political resume. That was also the time when his fellow classmates voted him most likely to succeed. It must have served as his inspiration because he proved them right. Over the years GEORGE proved to be a success at just about everything he set his mind to. That helped him to accomplish just about all that he had predicted and much, much more.

As any observer knows, one of the constant themes that runs through GEORGE's political career has been his determination to be a good steward of the resources we have been blessed to receive. It unsettles him to see waste of any kind, especially when it comes to our budget and the funds taxpayers all across the country send to Washington to run our government.

At each post he has served—mayor, Governor, and now, in the Senate—people have looked to him for his leadership and his willingness to make the tough choices that must be made if we are to provide our children with a fair chance to live their own version of the American dream. GEORGE has warned us more than once. If we continue to spend so much of our children's future resources, we will leave them with a huge debt and an economy so weak and sluggish as to offer them little hope of ever freeing themselves from it. We ought to listen to him and take his advice—for our sake and theirs.

GEORGE has been a remarkable public servant, and he has served at many different levels of government throughout his career. I know he would be the first to say he wouldn't have been able to do all that without the person he calls the greatest blessing he has received in life by his side. That person is his wife Janet, who has been his greatest source of support and guidance for 48 years. Together they have made a difference wherever they have been.

In the years to come, I will always remember and admire all you did as Governor of Ohio with such a perfect First Lady by your side. I have a hunch you were such a great vote-getter because you had an advantage—a lot of people voted for you because they were also voting for her.

Looking back, we both served as mayors in our home States. When we did we had to find a way to pay for everything. That is why I always had an appreciation for the way you examined every detail of each issue through the lens of your background and how the people back home would feel about it.

Diana joins in sending our best wishes to you both and our thanks and appreciation for all you have done for Ohio and the Nation during your many years of public service. Good luck in all your future endeavors. Keep in touch. You'll be missed. It just won't be the same around here without you.

CHRIS DODD

At the end of each session of Congress it has long been a tradition in the Senate to take a moment to express our appreciation and say goodbye to those who will not be returning in January for the beginning of the next Congress. One of those I know I will miss who will be stepping down to spend more time with his family is CHRIS DODD of Connecticut.

If I could sum up CHRIS's career in the Senate and the way he lives his life every day with one word, I think that word would be ''passion.'' Simply put, CHRIS is the most passionate Senator I have ever known or had the opportunity to work with and observe.

Coming from a well known political family, CHRIS must have learned at an early age the difference that it can make. I have always believed it is the key ingredient to any effort and it often means the difference between success and failure. Looking back, the enthusiasm and spirited focus that CHRIS so clearly brings to every discussion or debate on the Senate floor and in committee has helped him to create alliances and forge agreements that have led to the passage of legislation that might not have crossed the finish line and made it into law if not for him.

CHRIS has now served for 30 years in the Senate and he has a great deal to show for his efforts. His style of leadership, the relationships he has developed with his colleagues, and his pursuit of his legislative priorities have enabled him to make a difference in many, many ways and have an impact not only in Connecticut but all across the Nation.

One of the greatest achievements of his career has to be the Family and Medical Leave Act that CHRIS authored and helped to shepherd through the Senate into law. Thanks to him, whenever it is needed, employees are now able to take some time off to care for their children or ensure that an elderly family member receives some attention and support.

One more moment that is familiar to us all, was CHRIS's willingness to step in for our good friend, Senator Ted Kennedy, when Ted was in poor health, to help direct the disposition of the health care bill. I am sure it meant a great deal to Ted to know that the effort he was such a vital part of was in such good and capable hands.

Looking ahead, CHRIS isn't really going into retirement. He is taking on another challenge full time—raising his family. He started a family later than some, but the passion he has brought to everything in life has clearly been brought to bear on the care and nurturing of his two daughters. As every father knows, it is always the little ladies who have their dads wrapped around their fingers. As they grow up, each new day is another chapter of their lives that is waiting to be written as Mom and Dad share in the wonder and magic their children experience as they discover the world around them.

Looking back, ever since the day when CHRIS first arrived in the Senate, he has always loved being around good friends, enjoying a good joke, and sharing a good word or two. That is why it came as no surprise when, during a recent interview he said, ''I don't know of a single colleague that I have served with in thirty years that I couldn't work with.''

That is why CHRIS has been such an effective Senator over the years and why, when the day comes when he casts his last vote and heads home to be with his family, we will all miss him.

CHRIS, I hope you will keep in touch with us. You and your wife Jackie have a great future in store and I am sure you will enjoy every day together. As I have learned with the birth of each child and grandchild—with another just born—each day you spend with your children is more proof of the wisdom of the old Irish saying—bricks and mortar may make a house but it is the laughter of our children that makes it a home.

Good luck. God bless.

JUDICIAL NOMINATIONS

Mr. LEAHY. Mr. President, last night, as snow fell in Washington, DC, the Senate freeze on confirming judges began to thaw a bit. I thank the leaders for clearing 4 of the 38 judicial nominations awaiting final action by the Senate. These nominations will fill a few of the historically high number of Federal judicial vacancies around the country, including in the Eastern District of California, one of the districts with the highest workloads in the country. All the nominations confirmed last night were reported by the Judiciary Committee without objection way back in May and early June. I hope this is an indication that the other 34 judicial nominees pending in the Senate will receive consideration and a vote by the Senate before the Senate adjourns.

Senate consideration of the four nominations we confirmed last night was long overdue. In fact, these are the first judicial confirmations the Senate has considered since September 13, more than 3 months ago. For months, these nominations and many others have languished before the Senate, without explanation and for no reason. As a result of these needless delays, of the 80 judicial nominations reported favorably by the Judiciary Committee, only 45 have been considered by the Senate. Even with yesterday's confirmations, that remains a historically low number and percentage. Meanwhile, 34 judicial nominees with well-established qualifications and the support of their home State Senators from both parties are still waiting for Senate consideration. Some were sent to the Senate for final action as long ago as last January after being reported unanimously by all Republicans and Democrats on the Judiciary Committee.

Last night, we unanimously confirmed Catherine Eagles to the Middle District of North Carolina, Kimberly Mueller to the Eastern District of California, John Gibney to the Eastern District of Virginia, and James Bredar to the District of Maryland. Judge Eagles and Judge Mueller were reported unanimously by the Judiciary Committee on May 6; Mr. Gibney's nomination was reported unanimously on May 27; and Judge Bredar's nomination was reported unanimously on June 10. Judge Mueller's confirmation is particularly welcome news for the Eastern District of California, which maintains the highest weighted caseload among all Federal judicial districts across the country. There is no reason and still no explanation for these delays.

Since last year, I have been urging all Senators, Democrats and Republicans, to join together to take action to end the crisis of skyrocketing judicial vacancies. That has not happened. I have asked that we return to the longstanding practices that the Senate used to follow when considering nominations from Presidents of both parties. This has not happened. As a result, 34 judicial nominations that have been favorably reported by the Judiciary Committee continue to be stalled on the Senate's Executive Calendar awaiting final consideration and their confirmation.

I hope that our action yesterday in considering a handful of nominations

signals a new effort to address the vacancies that have doubled over the last 2 years. Vacancies are now at the historically high level of 108. Fifty of these vacancies are deemed judicial emergency vacancies by the nonpartisan Administrative Office of the U.S. Courts. The Senate has received letters from courts around the country calling for help to address their crushing caseloads, including letters from the Chief Judges of the Ninth Circuit Court of Appeals and the U.S. District Courts in California, Colorado, Illinois and the District of Columbia. They have pleaded with us to end the blockade and confirm judges to fill vacancies in their courts.

The Senate should vote on all of the judicial nominations awaiting final action by the Senate. We should do as we did during President Bush's first 2 years in office, and consider every judicial nomination favorably reported by the Judiciary Committee. During those 2 years, the Judiciary Committee favorably reported 100 judicial nominations and the Senate confirmed every one of them, including controversial circuit court nominations reported during the lame duck session in 2002. In contrast, during this first Congress of President Obama's administration, the Senate has considered just 45 of the 80 nominations reported by the Judiciary Committee.

I hope we can build on the belated progress made last night. Agreements to debate and consider nominations have been sought repeatedly. Of the 34 judicial nominations currently stalled on the Executive Calendar, 25 of them were reported unanimously by the 19 Republican and Democratic members of the committee. Another three were reported with strong bipartisan support and only a small number of no votes. Of these 28 bipartisan, consensus nominees, 15 of them were nominated to fill judicial emergency vacancies. They all should have been confirmed within days of being reported. It will be a travesty if they are not all confirmed before the 111th Congress adjourns.

These consensus nominees yet to be considered include six unanimously reported circuit court nominees, and another circuit court nominee supported by 17 of the 19 Senators on the Judiciary Committee. The nomination of a respected and experienced jurist, Judge Albert Diaz of North Carolina, for a judicial emergency vacancy on the Fourth Circuit has been stalled for 11 months, since last January, despite the support of both his home state Senators, a Democrat and a Republican. Four of the other consensus circuit court nominations would also fill judicial emergency vacancies, and three of them came through the committee with the strong support of two home State Republican Senators. All seven circuit court nominees are superbly qualified and I predict if considered would be confirmed with strong bipartisan support.

Last night we confirmed four district court nominations, but 26 are still being blocked from consideration. Some were reported as long ago as February. Senate inaction on these nominations is a dramatic departure from the traditional practice of considering them expeditiously and with deference to the home State Senators. These 26 district court nominations include 19 nominations reported unanimously by the Judiciary Committee. Thirteen of these nominations are for seats designated as judicial emergencies. All 26 nominees have well-established qualifications and are at the top of the legal community in their home States. All have put their lives and practices on hold in an attempt to serve their country and their community. There is no cause for continuing to block the Senate from considering their nominations and no precedent for extending these delays further.

For the last 17 years, Catherine Eagles has served North Carolina as a superior court judge. Before that, she spent nearly a decade as an attorney in private practice. Her nomination has had the support of both of her home State Senators, Senator BURR, a Republican, and Senator HAGAN, a Democrat—as does the nomination of Alberto Diaz to the Fourth Circuit from North Carolina that remains stalled without final action. The American Bar Association, ABA, Standing Committee on the Federal Judiciary unanimously rated Judge Eagles well-qualified—its highest possible rating—to serve as a District Court Judge. With her confirmation, Judge Eagles will become the first woman to serve on the Middle District of North Carolina, and only the second in the State.

The nomination of Kimberly Jo Mueller to fill a judicial emergency vacancy on the Eastern District of California, one of the busiest courts in the country, was held on the Executive Calendar for more than 7 months. Judge Mueller has served the Eastern District as a Magistrate Judge since 2003. Prior to becoming an attorney, she was a 6-year term as a Sacramento city councilmember before earning her J.D. from Stanford Law School. Her nomination has the strong support of both of her home State Senators and she was unanimously rated well qualified by the ABA Standing Committee on the Federal Judiciary, its highest possible rating. Judge Mueller will be the only female judge in the Eastern District of California.

John A. Gibney, Jr. was nominated more than eight months ago to fill a judicial emergency vacancy. That Mr. Gibney has the strong support of both Virginia Senators is no surprise since he has a long and distinguished career, practicing law in Richmond, VA, for more than 30 years. Mr. Gibney has represented a wide variety of clients, from business to local governments to private individuals. Currently, he is a partner and a civil litigator in the Richmond, VA, firm ThompsonMcMullan. Mr. Gibney earned his B.A., Phi Beta Kappa, from the College of William & Mary and his J.D. from the University of Virginia. After graduation, he clerked for Justice Harry L. Carrico of the Supreme Court of Virginia.

Judge James Bredar has served for 12 years as a Federal Magistrate Judge on the District Court to which he is now nominated. As a lawyer, Judge Bredar saw the justice system from both sides, first as a Federal prosecutor in Colorado and then as a Federal public defender in Maryland. Judge Bredar will be the first Federal defender to serve as a Federal judge in Maryland. His nomination has the support of both of his home State Senators and received the highest possible rating from the ABA Standing Committee on the Federal Judiciary.

The 34 judicial nominations remaining on the calendar should be accorded the same up-or-down vote as the four considered last night. They should have the same up-or-down vote given to all 100 of President Bush's judicial nominations reported by the committee in his first 2 years. Even if Republican Senators will not follow our example and treat President Obama's nominees as we treated President Bush's, they should at least listen to their own statements from just a few years ago. They said that every judicial nomination reported by the Senate Judiciary Committee was entitled to an up-or-down vote. They spoke then about the constitutional duty of the Senate to consider every judicial nomination. The Constitution has not changed; it has not been amended. The change from the days in which they made those statements is that the American people elected a new President and he is making the nominations.

The Senate should also debate and a vote on those few nominees that Republican Senators opposed in committee. These nominees include Benita Pearson of Ohio, William Martinez of Colorado, Louis Butler of Wisconsin, Edward Chen of California, John McConnell of Rhode Island, and Goodwin Liu of California. As I have said before, I have reviewed their records and considered their character, background and qualifications. I have heard the criticisms of the Republican Senators on the Judiciary Committee as they have voted against this handful of nominees. I disagree, and believe the Senate would vote on their confirmation. Each of these nominees have been reported favorably by the Judiciary Committee, several of them two or three times, and each deserves an up-or-down vote. That they will not be conservative activist judges should not disqualify them from consideration by the Senate or serving on the bench.

President Obama has reached out and worked with Senators from both sides of the aisle in selecting well-qualified judicial nominees. As chairman of the Judiciary Committee, I have made sure that we have not proceeded on any judicial nominees without the support of

both home State Senators. There has been consultation and a thorough and fair process for evaluating nominations. There has been more than enough time for Senators to decide how they want to vote. Now it is time to return to the Senate's longstanding traditions and reject the obstruction that has blocked us month after month from considering judicial nominations. Now is the time to act to address the needs of the Federal courts and the American people who depend on them for justice.

FORENSICS REFORM

Mr. LEAHY. Mr. President, for nearly 2 years, the Senate Judiciary Committee has been examining serious issues in forensic science that go to the heart of our criminal justice system. The committee has studied the problem exhaustively, and we reached out to a wide array of experts and stakeholders. While the days of the 111th Congress are drawing to a close, it is my intention to introduce legislation early next year that represents the culmination of this process. That legislation will strengthen our confidence in the criminal justice system and the evidence it relies upon by ensuring that forensic evidence and testimony is accurate, credible, and scientifically grounded.

In February of 2009, the National Academy of Science, NAS, published a report asserting that the field of forensic science has significant problems that must be urgently addressed. The report suggested that basic research establishing the scientific validity of many forensic science disciplines has never been done in a comprehensive way. It also suggested that the forensic sciences lack uniform and unassailable standards governing the accreditation of laboratories, the certification of forensic practitioners, and the testing and analysis of evidence. Indeed, I was disturbed to learn about still more cases in which innocent people may have been convicted, perhaps even executed, in part due to faulty forensic evidence.

Since then, the Judiciary Committee has held a pair of hearing on the issue. Committee members, as well as staff, have spent countless hours talking to prosecutors, defense attorneys, law enforcement officers, judges, forensic practitioners, scientists, academic experts, and many, many others to learn as much as we can about what is happening now and what needs to be done. Through the course of this inquiry, we discussed some of the current problems in forensic science that we need to address. But it also became abundantly clear that the men and women who test and analyze forensic evidence do great work that is vital to our criminal justice system. Accordingly, as a former prosecutor, I am committed to strengthening the field of forensics, and the justice system's confidence in it, so that their hard work can be consistently relied upon, as it should be.

While there were varying responses to the findings of the NAS report, one thing was clear: there needed to be a searching review of the state of forensic science work in this country. And it also became clear through this process that there is widespread consensus about the need for change and the kind of change that is needed. Almost everyone I heard from recognized the need for strong and unassailable research to test and establish the validity of the forensic disciplines, as well as the need for consistent and rigorous accreditation and certification standards in the field.

Prosecutors and law enforcement officers want evidence that can be relied upon as definitively as possible to determine guilt and prove it in a court of law. Defense attorneys want strong evidence that can as definitively as possible exclude innocent people. Forensic practitioners want their work to have as much certainty as possible and to be given deserved deference. All scientists and all attorneys who care about these issues want the science that is admitted as evidence in the courtroom to match the science that is proven through rigorous testing and research in the laboratory.

Everyone who cares about forensics also recognizes that there is a dire need for well managed and appropriately directed funding for research, development, training, and technical assistance. It is a good investment, as it will lead to fewer trials and appeals and reduce crime by ensuring that those who commit serious offenses are promptly captured and convicted.

The legislation I intend to introduce next year will address these widely recognized needs. Among other things, it will require that all forensic science laboratories that receive federal funding or federal business be accredited according to rigorous and uniform standards. It will require that all relevant personnel who perform forensic work for any laboratory or agency that gets federal money become certified in their fields, which will mean meeting standards in proficiency, education, and training.

I expect that the proposal will set up a rigorous process to determine the most serious needs for peer-reviewed research in the forensic science disciplines and will set up grant programs to fund that research. The bill will also provide for this research to lead to appropriate standards and best practices in each discipline. It will also fund research into new technologies and techniques that will allow forensic testing to be done more quickly, more efficiently, and more accurately. I believe these are proposals that will be widely supported by those on all sides of this issue.

The bill that I will introduce will seek to balance carefully a number of competing considerations that are so important to getting a review of forensic science right. It will capitalize on existing expertise and structures, rather than calling for the creation of a costly new agency. And ultimately, improved forensic science will save money, reduce the number of costly appeals, shorten investigations and trials, and help to eliminate wrongful imprisonments.

I understand that sweeping forensic reform and criminal justice reform legislation not only should, but must, be bipartisan. There is no reason for a partisan divide on this issue; fixing this problem does not advance prosecutors or defendants, liberals or conservatives, but justice. I have worked closely with interested Republican Senators on this vital issue. I hope that many Republican Senators will join me in introducing important forensics reform legislation at the beginning of the next Congress, and I will continue to work diligently with Senators on both sides of the aisle to ensure that this becomes the consensus bipartisan legislation that it ought to be.

I want to thank the forensic science practitioners, experts, advocates, law enforcement personnel, judges, and so many others whose input forms the basis for the legislation I will propose. Their passion for this issue and for getting it right gives me confidence that we will work together successfully to make much needed progress.

I hope all Senators will join me next year in advancing important legislation to restore confidence to the forensic sciences and the criminal justice system.

BANKRUPTCY TECHNICAL CORRECTIONS ACT

Mr. LEAHY. Mr. President, on November 19, 2010, the Senate passed the Bankruptcy Technical Corrections Act of 2010. This legislation makes many important technical changes to our bankruptcy laws.

Yesterday, on December 16, the House of Representatives passed this legislation again, with an amendment from the Senate. Senator WHITEHOUSE, chairman of the Judiciary Committee's Subcommittee on Administrative Oversight and the Courts, along with Chairman CONYERS and Ranking Member SMITH of the House Judiciary Committee should be commended for their attention to these issues.

This bipartisan legislation makes numerous technical corrections to the Bankruptcy Code. These revisions are needed as the result in part of the major reforms that took place in 2005. Given the breadth of the 2005 reforms, and the highly technical nature of the code, it was not unexpected that some additional congressional action was needed to make some needed adjustments. Although purely technical, these changes will assist practitioners and judges adjudicate cases under the code more efficiently, and with a savings of judicial resources.

At a time in the United States when Americans are struggling under severe economic conditions and with millions

of Americans having lost their homes or in danger of foreclosure, it is especially important for the Bankruptcy Code to operate as efficiently and effectively as possible.

I thank all Senators for their support of this legislation.

NORTH FORK PROTECTION

Mr. BAUCUS. Mr. President, I rise today to speak about one of the things that I love most about Montana—the North Fork of the Flathead River. Everyone who experiences the Flathead Valley in northwestern Montana is awed by its pristine waters, larger than life landscapes, and raw wilderness. With its headwaters in British Columbia, the North Fork of the Flathead River forms the western boundary of Glacier-Waterton International Peace Park. It is one of the last untouched places on our continent. For decades, the North Fork has been threatened by oil and gas and mining proposals in British Columbia. For the last 35 years, I have battled these proposals, one by one, each time victorious. After 35 years, we are beginning a new chapter of international cooperation in the North Fork.

In February of this year, British Columbia and Montana signed a memorandum of understanding, agreeing to prevent mining, oil and gas, and coalbed methane development in the watershed. Senator TESTER and I have negotiated the retirement of the primary interest in about 200,000 acres on the U.S. side of the border—about 80 percent of the leased acreage—without cost to the American taxpayer. In June of this year, we asked President Obama to work with Canadian Prime Minister Harper to put in place measures to establish permanent protections for the North Fork. On June 28, the two met in Canada, and pledged cooperative efforts to protect this one of a kind ecosystem. Work is continuing behind the scenes on this effort, and we are very optimistic that it will be successful.

Mr. TESTER. One of the most important pieces of this puzzle is getting measures in place to achieve permanent, sustainable protections. Without that, Montanans will never be certain that we are not just an election away from a change in the conservation status of these lands north of the U.S. border. But, we are on the verge of a breakthrough, and I know that the committee is very supportive of these efforts.

To that end, we would like to confirm that if an international agreement is reached that includes measures to achieve permanent, sustainable protections for the North Fork of the Flathead River and the adjacent area of Glacier-Waterton International Peace Park then the Secretary may use funds available to the National Park Service from the recreation enhancement fee program, to implement conservation measures, to include wildlife management and habitat restoration, where such activities have a direct benefit to Glacier-Waterton International Peace Park consistent with park purposes.

Mr. INOUYE. Mr. President, I understand the importance of this matter to the Senators from Montana, and indeed all Americans. As long as the Secretary complies with the authorizing statutes, then I concur that conservation measures at Glacier-Waterton International Peace Park are a suitable use for the funding collected through the recreation enhancement fee program.

Mr. TESTER. I thank the Senator. The North Fork of the Flathead is a true gem of Montana, and this clarification will help us cooperate with Canada to build upon the historic agreement between British Columbia and Montana, and establish permanent protections.

Mr. BAUCUS. I thank the Senator. In 1975, I introduced the bill to designate the Flathead River as a Wild and Scenic River. It was designated as such a year later. For me, that began a lifelong effort to protect the North Fork. At that time I said:

> A hundred years from now, and perhaps much sooner, those who follow us will survey what we have left behind . . . let us leave the Flathead as we found it. Let us prove that we care about those who will come after us.

Today, this small step demonstrates that with cooperation between our two nations, between the Province and the State, we can ensure that every Montanan, every American, and every Canadian who follows us will survey the North Fork of the Flathead River and share our feeling of awestruck wonder that such a place still exists.

AIRLINE WORKER ROLLOVER

Ms. CANTWELL. Mr. President, I would like that thank Chairman BAUCUS for his continuing work in helping me address an issue important to airline workers whose employers went bankrupt after September 11, 2001.

I first started working on this issue in 2007 when I introduced legislation to allow employees of bankrupt commercial airlines to roll their bankruptcy payments into individual retirement accounts to provide for a retirement savings option to those airline workers whose defined benefit plans were terminated or frozen in bankruptcy proceedings.

My legislation attracted bipartisan support from my colleagues, and in 2008, The Worker, Retiree, and Employer Recovery Act, WRERA, was enacted into law, and we worked together to include a provision to allow airline workers to rollover bankruptcy payments into a Roth IRA only. While this was an important step, it is also important to take the next step and allow workers the additional option to rollover bankruptcy payments into a traditional IRA—an option typically available for everyone when deciding which retirement vehicle is right for them.

With the assistance of the distinguished chairman, we began the process of taking that next step during the 111th Congress. In May 2010, Chairmen BAUCUS and LEVIN included the Airline Worker Relief provision with H.R. 4213, the 2010 Jobs Act legislation which extended several expiring tax provisions and provided for technical corrections to pension funding legislation, and the House of Representatives passed the Jobs Act on May 28, 2010.

On June 16 of this year, Chairman BAUCUS also included the airline worker rollover provision when he introduced his substitute amendment to H.R. 4213. However, on June 18, the pension funding relief section of H.R. 4213, absent the airline worker rollover provision, was included in H.R. 3962, the Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010. The airline worker rollover provision was not included because unlike the other pension funding relief items that raised revenue, the rollover provision has a modest budgetary cost. Regrettably, the Senate has not since had the opportunity to consider the Rollover provision.

Today Chairman BAUCUS is proposing a substitute amendment to make corrections to the pension funding relief provisions that were enacted as part of the Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010. These items are scored to have no revenue effect; so once again, the airline worker rollover provision will not be included. I will not object to this amendment, but at the same time, it is important for the record to clarify our intent to move the airline worker rollover provision on the next available and appropriate legislative vehicle.

Mr. BAUCUS. Mr. President, I thank Senator CANTWELL for her work on this important provision to help airline workers, and I want to make it clear for the record that I will work to include this airline worker rollover provision in the next appropriate legislative vehicle.

REMEMBERING RICHARD HOLBROOKE

Mr. LEVIN. Mr. President, the greatness of our Nation depends not just on our economic or military might or the drive of our people. We are great in part because we seek not just our own prosperity and security but peace and security for all peoples, and because we understand the relationship between their security and our own. And few Americans in our time have done more to advance those goals around the world than Ambassador Richard Holbrooke. His sudden passing this week is a great loss to this Nation, and to anyone anywhere who values peace and freedom.

Richard Holbrooke saw opportunities for peace where others saw only impenetrable thickets of competing interest and implacable enmity. Surely that

was true of the Balkans in the 1990s, a region of the world plagued for centuries by ethnic and religious hatreds so deep that many considered them impossible to solve. Richard Holbrooke found a way. Thanks to the tireless work of his diplomatic team on the Dayton Accords, thousands lived who might otherwise have died, and millions were lifted out of the horror of war.

Much has been said and written about Ambassador Holbrooke's larger-than-life personality. His presence was formidable, his ambition as towering as his talent. But that ambition, that forceful intellect and arresting presence, were harnessed to a larger goal—the promotion of his Nation's interest, and the larger interest of the global community.

I had the privilege of working closely with Ambassador Holbrooke when he took on the role of Special Representative for Afghanistan and Pakistan. Here was another place where his talents were needed, another region of the world plagued by centuries-old conflicts and modern-day animosities. I valued his analysis and advice, and admired the way in which he eagerly sought out information and advice from his own staff and from outside sources. He was decisive and determined, but he came to his positions after seeking out and carefully analyzing diverse viewpoints.

I am saddened at the loss of Richard Holbrooke. I am saddened I will no longer be able to discuss with him the pressing issues of our time. And I am saddened that our nation will never again be able to call upon him to calm the troubled waters of our world. But his legacy is secure. It can be found in the countless younger men and women who learned at his side and will carry on his work. It can be found in the safer, more secure nation that he served. And it can be found in all the war-torn corners of the world where fear and hatred and violence are held at bay thanks to his tireless efforts.

THANKING STAFF

Mr. FEINGOLD. Mr. President, as I leave the Senate I want to take a moment to express my profound thanks to those who have served on my Federal staff over the last 18 years. I feel so fortunate to have had the honor of serving in this body, and the honor of working with these dedicated staff members. I am deeply proud of the work my staff has done, and the outstanding commitment they have shown to serving the people of Wisconsin. I ask that their names be printed in the RECORD.

George R. Aldrich, Ed An, Anneka Anderson, Carol Anthony, Rebecca F. Austin, Jessica G. Bacalzo, Dean T. Baldukas, Mike Bare, Cyndi Bartel, Stephanie Batko, Amanda Beaumont, Jihan Bekiri, Brittany Benowitz, LaMarr Q. Billups, Laura A. Bishop, Yolanda T. Black, Dave Bolles, Patrick Bomhack, Lois M. Boos, Jon Bortin.

Mary Bottari, Laura Bowman, Mark Bromley, Catrell Brown, Jeanne Bruce, Deanna M. Busalacchi, Shawn Campbell, Kevin C. Canan, Sarah Carlson-Wallrath, Aisha Carr, Dawnita S. Chandler, Brian Chelcun, Celine Clark, Nick Cornelisse, Katie Crawley, Kenneth M. Creighton, Jordan Cutler, Bill Dauster, Serena Davila, Hilary DeBlois.

Robert B. Decheine, Danielle Decker, Margaret Della, Jennifer K. Dettmering, Greg L. Deuchars, Hope DeVougas, Cynthia L. Devroy, Steven Driscoll, Jennifer Eberhardt, Suzanne Endres, Erin Erlenborn, Meredith Fahey, John A. Fairbanks, Matthew Farrauto, Neil W. Fehrenbach, William M. Feitlinger, Lara Flint, Thomas E. Ford, Grey Frandsen, Jeri Gabrielson.

Mirna Galic, Adrian G. Garcia, Jeanette Garza, Michelle Gavin, Ari Geller, Paul Geller, Max Gleischman, Kathleen Gohlke, Evan Gottesman, Tim Raducha Grace, Karen Graff, Ryshawnda E. Grant, Laura Grund, Ian A. Gustafson, Carl Hampton, Sean K. Hanley, James L. Hansen, Katie Hanson, Moira F. Harrington, Charlotte Harris-Benn.

Jenny G. Hassemer, Kenneth C. Haugh, Ben Hawkinson, Robb Hecht, Trisha Helchinger, Alyson Herdeman, Elizabeth Hill, Russell A. Hinz, Rea Holmes, Heidi A. Holzhauer, Euphia Hsu-Smith, John B. Hwang, Michael Inners, Mary Irvine, Michael Jacob, Brad Jaffe, Gail C. Junemann, Christopher Kattenburg, David Kaufman, Jeannine M. Kenney.

Maya Khan, Farhana Khera, Timothy P. Killian, Lance Kinne, Leesa Klepper, Katie Klimowicz, Casey Klofstat, Matthew Knopf, Ted Koehler, Joe Komisar, Rebecca Kratz, John Kraus, Chris M. Kujack, Andrew H. Kutler, Ruth E. LaRocque, Laura M. Langer, Peter S.Y. Lau, Savannah Lengsfelder, Robyn Lieberman.

Cindy Liebman, Shannon Lightner, Christine Lindstrom, Todd S. Lipke, Sebastian Lombardi, Rebeca Lopez, Zach Lowe, Jessica Maher, Amy E. Maloney, Sarah Margon, Rheanna Martinez, Susanne M. Martinez, Jackie Martins, Sharmila Matugama, Greg C. May, Patti Jo McCann, Tom N. McCormick, Joy McGlaun, Anne T. McMahon, Molly McNab, Erin Meade.

John M. Medinger, Jeff Miller, Karen R. Miller, Tom M. Miller, Trevor Miller, Nicci M. Millington, Nancy Mitchell, LaKindra Mohr, Bryan N. Mowry, Catherine S. Murphy, Michelle Murray, Jeffrey P. Neterval, John Neureuther, Matt Nikolay, Mustafa Nusraty, Tanya Oakes, Elizabeth M. O'Callahan, Chris Oechsli, Odalo J. Ohiku, Brian O'Leary.

Michael P. O'Leary, Erik Opsal, Erika Pagel, Suzanne Brault Pagel, Mary Palmer, Peter P. Pedraza, Janet L. Piraino, Emily Plagman, Sarah Preis, Elizabeth Prestley, Shelly M. Principe, Emily Pritzkow, Lawanda A. Proctor, Peter Quaranto, Deborah G. Ragland, Caren Ramsey, Kristin L. Rech, Kelly Miller Reed, Jodi L. Reinke, Mary Frances Repko.

Theresa Reuss, Thomas Reynolds, Mary Ann Richmond, Jay Robaidek, Francisco Rodriguez, Susan Rohol, Linda S. Rotblatt, Nick Rotchadl, Maurice A. Rouse, Katie Rowley, Rebecca Rubel, James M. Rudolf, Jacqueline Sadker, David J. Sandretti, Bob Schiff, Mike Schmidt, Darin C. Schroeder, Nicole Schultz, Bob Schweder, Will Sebern.

Jennifer Francis Seeger, Nhora L. Serrano, Geoffrey M. Seymour, Michael J. Shmagin, Melissa F. Shusterman, Ravae Sinclair, Sumner Slichter, Asher Smith, Todd G. Smith, Cecilia Smith-Robertson, Victoria C. Solomon, Greg St. Arnold, Stacia Stanek, Julie E. Stansfield, Danice K. Stanton, Scott Stearns, Matt Steiner, Sara Steines, Jennifer H. Sterling, Chuck Stertz.

Meritene Steward, Kimberly Stietz, Kristin L. Stommel, Karen R. Surrett, James S. Swiderski, Anthony J. Taylor, Laura E. Teelin, Jenny Thalheimer, Sara D. Thom, Kitty Thomas, Stacey R. Thompson, Jeremy Tollefson, Rene Torrado, Manuel Vasquez, Ken D. Velasco, James Verbick, Caroline Wadhams, Ala'a Wafa, Peter Waldman.

Tom Walls, Adam Waskowski, Paul Weinberger, Stephanie A. Weix, Travis West, Heather White, Kirsten White, Margaret Whiting, Joel Wiginton, Michael Wilder, Jennifer J. Williams, Nathan Winn, Mike B. Wittenwyler, Cynthia Woolfolk, Bashaun D. Wray, Tom Wyler, Lisbeth Zeggane, Natale Zimmer, Graham Zorn.

REMEMBERING ROBERT WILLIAM ANDREW FELLER

Mr. GRASSLEY. Mr. President, on November 3, 1918, an American hero—Robert William Andrew Feller—was born in Dallas County, IA, near the town of Van Meter. Sadly, this same hero died on December 15, 2010.

Van Meter is nestled between the steady and rolling Raccoon River on the north side of town, and the lush and sweeping prairie hills on the south side of town.

In most ways, it is your typical rural Iowa town. There is a post office, a few churches, a bank, a car wash and gas station, and a bar and grill.

There are just under a thousand residents living in Van Meter. And so the Van Meter Bulldogs—from kindergarten through the twelfth grade—still all go to school together in the same building.

But unlike every other small town in Iowa, or America for that matter, there rests in Van Meter on Mill Street a museum paying tribute to the town's hero and favorite son—Bob Feller.

Bob Feller was born and grew up on a farm just outside of Van Meter. Early on his father, who was a farmer, and his mother, who was a nurse and teacher, realized that their young Robert had a talent.

That talent was playing baseball. Specifically, hurling curve balls and sliders and fastballs at whoever dared to step up to the plate against young Bob Feller.

Bob Feller was so focused on baseball and so in love with the sport that his father built a regulation baseball diamond on their Dallas County farm naming it ''Oak View Park.'' Bob and his family recruited other players and formed a team appropriately called ''The Oakviews.''

Bob Feller said his farm work and chores were what helped to develop his throwing speed and arm strength. His throwing speed and arm strength are what earned him the nicknames of ''Rapid Robert'' and ''Bullet Bob'' and ''The Heater from Van Meter.''

Leveraged with a high left-leg kick and whip-like arm, Bob Feller delivered some of the fastest stuff ever to come down from a pitcher's mound. Batters trembled facing him at home plate. Umpires needed to pay close attention. The crowds were always in awe. And Feller's pitches were blurs.

It wasn't too long before word spread about this baseball wonder. Soon—and

still in his teens and not even having graduated high school yet—Feller was pitching to some of his boyhood heroes in front of crowds of tens of thousands of people all across America. He dazzled all who saw him play.

Barely old enough to shave, he found himself playing Major League Baseball for the Cleveland Indians in 1936. He faced the greatest baseball stars of the 1930s, 1940s and 1950s Ted Williams, Lou Gehrig, Hank Greenberg, Mickey Mantle, Nellie Fox.

Frequent opponent and purist hitter Joe DiMaggio said in 1941 about Feller, ''I don't think anyone is ever going to throw a ball faster than he does.''

A sports reporter said of Feller's pitching, ''And his curveball isn't human.''

We have all read about Bob Feller's amazing baseball career spent entirely with the Cleveland Indians where he was the winningest pitcher in club history with 266 wins.

He was an eight-time All Star. He captured a World Series ring in 1948. He pitched three no-hitters, including the only Opening Day no-hitter. He retired with 2,581 career strikeouts. He is enshrined in the Baseball Hall of Fame in Cooperstown, NY.

These are impressive statistics from arguably the best pitcher to ever take the mound. But these stats and this ''farm to fame'' story is not what made Bob Feller a patriot or hero.

On December 7, 1941, the United States suffered a horrific attack by the Japanese when they bombed us at Pearl Harbor, HI. Just 2 days later after that horrific attack, Bob Feller did something selfless—he signed up to serve in the U.S. Navy to fight in World War II. This caused him to miss playing in the Major Leagues for a solid chunk of his career. He walked away from further baseball glory and records and achievements. Pure selflessness. He served voluntarily as a chief petty officer on the USS *Alabama* between 1941 and 1945.

Although most will remember him for his curveball, Bob Feller most wanted to be recognized for his service in World War II defending the United States from totalitarian powers and promoting liberty and freedom around the world.

Bob Feller's military service and love of country is what he ultimately wanted people to remember.

Across the plains there are everyday heroes serving us now, promoting security for Americans and freedom and liberty abroad. While they may not have sacrificed a professional sports career, they are still heroes and patriots nonetheless. Bob Feller would certainly agree with that assessment.

In Iowa, we grow more than just crops on the farm. We grow heroes, too—heroes like Bob Feller, everyday heroes.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Pate, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 9:32 a.m., a message from the House of Representatives, delivered by Ms. Chiappardi, one of its reading clerks, announced that the House has agreed to the amendment of the Senate to the amendment of the House to the amendment of the Senate to the bill (H.R. 4853) to amend the Internal Revenue Code of 1986 to extend the funding and expenditure of the Airport and Airway Trust Fund, to amend title 49, United States Code, to extend authorizations for the airport improvement program, and for other purposes.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

S. 30. An act to amend the Communications Act of 1934 to prohibit manipulation of caller identification information.

S. 841. An act to direct the Secretary of Transportation to study and establish a motor vehicle safety standard that provides for a means of alerting blind and other pedestrians of motor vehicle operation.

S. 3036. An act to establish the National Alzheimer's Project.

S. 3199. An act to amend the Public Health Service Act regarding early detection, diagnosis, and treatment of hearing loss.

S. 3386. An act to protect consumers from certain aggressive sales tactics on the Internet.

S. 3860. An act to require reports on the management of Arlington National Cemetery.

S. 4005. An act to amend title 28, United States Code, to prevent the proceeds or instrumentalities of foreign crime located in the United States from being shielded from foreign forfeiture proceedings.

H.R. 2941. An act to reauthorize and enhance Johanna's Law to increase public awareness and knowledge with respect to gynecologic cancers.

H.R. 4337. An act to amend the Internal Revenue Code of 1986 to modify certain rules applicable to regulated investment companies, and for other purposes.

H.R. 4853. An act to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, to amend title 49, United States Code, to extend authorizations for the airport improvement program, and for other purposes.

H.R. 6198. An act to amend title 11 of the United States Code to make technical corrections; and for related purposes.

H.R. 6516. An act to make technical corrections to provisions of law enacted by the Coast Guard Authorization Act of 2010.

The enrolled bills were subsequently signed by the President pro tempore (Mr. INOUYE).

At 4:55 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House has passed the following bill and joint resolution, in which it requests the concurrence of the Senate:

H.R. 6533. An act to implement the recommendations of the Federal Communications Commission report to the Congress regarding low-power FM service, and for other purposes.

H.J. Res 105. Joint resolution making further continuing appropriations for fiscal year 2011, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 335. Concurrent resolution honoring the exceptional achievements of Ambassador Richard Holbrooke and recognizing the significant contributions he has made to United States national security, humanitarian causes, and peaceful resolutions of international conflict.

H. Con. Res. 336. Concurrent resolution providing for the sine die adjournment of second session of the One Hundredth Eleventh Congress.

The message further announced that the House has agreed to the amendment of the Senate to the bill (H.R. 628) to establish a pilot program in certain United States district courts to encourage enhancement of expertise in patent cases among district judges.

The message also announced that the House has agreed to the amendments of the Senate to the bill (H.R. 1107) to enact certain laws relating to public contracts as title 41, United States Code, 'Public Contracts'.

The message further announced that pursuant to section 235 of the Tribal Law and Order Act of 2010 (Public Law 111–211), and the order of the House of January 6, 2009, the Speaker appoints the following Members of the House of Representatives to the Indian Law and Order Commission: Ms. HERSETH SANDLIN of South Dakota and Mr. POMEROY of North Dakota.

ENROLLED BILLS SIGNED

At 5:03 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 3447. An act to amend title 38, United States Code, to improve educational assistance for veterans who served in the Armed Forces after September 11, 2001, and for other purposes.

H.R. 4602. An act to designate the facility of the United States Postal Service 1 located at 1332 Sharon Copley Road in Sharon Center, Ohio, as the ''Emil Bolas Post Office''.

H.R. 5133. An act to designate the facility of the United States Postal Service located at 331 1st Street in Carlstadt, New Jersey, as the ''Staff Sergeant Frank T. Carvill and Lance Corporal Michael A. Schwarz Post Office Building''.

H.R. 5605. An act to designate the facility of the United States Postal Service located at 47 East Fayette Street in Uniontown, Pennsylvania, as the ''George C. Marshall Post Office''.

H.R. 5606. An act to designate the facility of the United States Postal Service located

at 47 South 7th Street in Indiana, Pennsylvania, as the ''James M. 'Jimmy' Stewart Post Office Building''.

H.R. 5655. An act to designate the Little River Branch facility of the United States Postal Service located at 140 NE 84th Street in Miami, Florida, as the ''Jesse J. McCrary, Jr. Post Office''.

H.R. 5877. An act to designate the facility of the United States Postal Service located at 655 Centre Street in Jamaica Plain, Massachusetts, as the ''Lance Corporal Alexander Scott Arredondo, United States Marine Corps Post Office Building''.

H.R. 6392. An act to designate the facility of the United States Postal Service located at 5003 Westfields Boulevard in Centreville, Virginia, as the ''Colonel George Juskalian Post Office Building''.

H.R. 6400. An act to designate the facility of the United States Postal Service located at 111 North 6th Street in St. Louis, Missouri, as the ''Earl Wilson, Jr. Post Office''.

At 6:48 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 3874. An act to amend the Safe Drinking Water Act to reduce lead in drinking water.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 6523. An act to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

ENROLLED JOINT RESOLUTION SIGNED

At 8:38 p.m., a message from the House of Representatives, delivered by one of its clerks, announced that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 105. Joint resolution making further continuing appropriations for fiscal year 2011, and for other purposes.

The enrolled joint resolution was subsequently signed by the Acting President pro tempore (Mr. DURBIN).

MEASURES PLACED ON THE CALENDAR

The following joint resolution was read the second time, and placed on the calendar:

S.J. Res. 42. Joint resolution to extend the continuing resolution until February 18, 2011.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, December 17, 2010, she had presented to the President of the United States the following enrolled bills:

S. 30. An act to amend the Communications Act of 1934 to prohibit manipulation of caller identification information.

S. 1405. An act to redesignate the Longfellow National Historic Site, Massachusetts, as the ''Longfellow House-Washington's Headquarters National Historic Site''.

S. 1774. An act for the relief of Hotaru Nakama Ferschke.

S. 3199. An act to amend the Public Health Service Act regarding early detection, diagnosis, and treatment of hearing loss.

S. 3386. An act to protect consumers from certain aggressive sales tactics on the Internet.

S. 3860. An act to require reports on the management of Arlington National Cemetery.

S. 4005. An act to amend title 28, United States Code, to prevent the proceeds or instrumentalities of foreign crime located in the United States from being shielded from foreign forfeiture proceedings.

S. 4010. An act for the relief of Shigeru Yamada.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–8533. A communication from the General Counsel of the Federal Housing Finance Agency, transmitting, pursuant to law, the report of a rule entitled ''Use of Community Development Loans by Community Financial Institutions to Secure Advances; Secured Lending by Federal Home Loan Banks to Members and their Affiliates; Transfer of Advances and New Business Activity Regulations'' (RIN2590-AA24) received in the Office of the President of the Senate on December 14, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC–8534. A communication from the Regulatory Specialist, Office of the Comptroller of the Currency, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Confidentiality of Suspicious Activity Reports'' (RIN1557-AD17) received in the Office of the President of the Senate on December 13, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC–8535. A communication from the Regulatory Specialist, Office of the Comptroller of the Currency, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Standards Governing the Release of a Suspicious Activity Report'' (RIN1557-AD16) received in the Office of the President of the Senate on December 13, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC–8536. A communication from the Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Implementation of Additional Changes from the 2009 Annual Review of the Entity List'' (RIN0694-AF01) received in the Office of the President of the Senate on December 13, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC–8537. A communication from the Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Updated Statements of Legal Authority to Reflect Continuation of Emergency Declared in Executive Order 12938'' (RIN0694-AF05) received in the Office of the President of the Senate on December 13, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC–8538. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revisions to the Arizona State Implementation Plan, Maricopa County'' (FRL No. 9233-3) received in the Office of the President of the Senate on December 14, 2010; to the Committee on Environment and Public Works.

EC–8539. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Technical Corrections to the Standards Applicable to Generators of Hazardous Waste; Alternative Requirements for Hazardous Waste Determination and Accumulation of Unwanted Material at Laboratories Owned by Colleges and Universities and Other Eligible Academic Entities Formally Affiliated With Colleges and Universities'' (FRL No. 9240-5) received in the Office of the President of the Senate on December 14, 2010; to the Committee on Environment and Public Works.

EC–8540. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Removal of Saccharin and Its Salts from the Lists of Hazardous Constituents, Hazardous Wastes, and Hazardous Substances'' (FRL No. 9239-8) received in the Office of the President of the Senate on December 14, 2010; to the Committee on Environment and Public Works.

EC–8541. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants, Commonwealth of Virginia; Control of Emissions from Existing Hospital/Medical/Infectious Waste Incinerator (HMIWI) Units, Negative Declaration and Withdrawal of EPA Plan Approval'' (FRL No. 9240-2) received in the Office of the President of the Senate on December 14, 2010; to the Committee on Environment and Public Works.

EC–8542. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Minnesota'' (FRL No. 9239-2) received in the Office of the President of the Senate on December 14, 2010; to the Committee on Environment and Public Works.

EC–8543. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Wisconsin; The Milwaukee-Racine and Sheboygan Areas; Determination of Attainment of the 1997 8-hour Ozone Standards'' (FRL No. 9238-9) received in the Office of the President of the Senate on December 14, 2010; to the Committee on Environment and Public Works.

EC–8544. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources'' (FRL No. 9238-5) received in the Office of the President of the Senate on December 14, 2010; to the Committee on Environment and Public Works.

EC–8545. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Application for Approval of Extension of Amortization Period''

(Revenue Procedure 2010-52) received in the Office of the President of the Senate on December 16, 2010; to the Committee on Finance.

EC–8546. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''2010 Base Period T-Bill Rate'' (Rev. Rul. 2010-28) received in the Office of the President of the Senate on December 16, 2010; to the Committee on Finance.

EC–8547. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to actions by non-Iranian companies to facilitate the Government of Iran's censorship activities; to the Committee on Foreign Relations.

EC–8548. A communication from the Deputy Director of Regulations and Policy Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Amendments to General Regulations of the Food and Drug Administration'' ((RIN0910-AG55)(Docket No. FDA-2010-N-0560)) received in the Office of the President of the Senate on December 13, 2010; to the Committee on Health, Education, Labor, and Pensions.

EC–8549. A communication from the Senior Counsel, Office of the Attorney General, Department of Justice, transmitting, pursuant to law, the report of a rule entitled ''Certification Process for State Capital Counsel Systems; Removal of Final Rule'' (RIN1121-AA76) received in the Office of the President of the Senate on December 13, 2010; to the Committee on the Judiciary.

EC–8550. A communication from the Staff Director, United States Commission on Civil Rights, transmitting, pursuant to law, the report of the appointment of members to the Maryland Advisory Committee; to the Committee on the Judiciary.

EC–8551. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels Greater Than or Equal to 60 Feet (18.3 Meters) Length Overall Using Pot Gear in the Bering Sea and Aleutian Islands Management Area'' (RIN0648-XA048) received in the Office of the President of the Senate on December 16, 2010; to the Committee on Commerce, Science, and Transportation.

EC–8552. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Atlantic Highly Migratory Species; Inseason Action to Close the Commercial Blacknose Shark and Non-Blacknose Small Coastal Shark Fisheries'' (RIN0648-XZ95) received in the Office of the President of the Senate on December 16, 2010; to the Committee on Commerce, Science, and Transportation.

EC–8553. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries Off West Coast States; Modifications of the West Coast Commercial and Recreational Salmon Fisheries; Inseason Actions No. 14 and No. 15'' (RIN0648-XY83) received in the Office of the President of the Senate on December 16, 2010; to the Committee on Commerce, Science, and Transportation.

EC–8554. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery of the South Atlantic; Reopening of the 2010–2011 Commercial Sector for Black Sea Bass in the South Atlantic'' (RIN0648-XZ82) received in the Office of the President of the Senate on December 16, 2010; to the Committee on Commerce, Science, and Transportation.

EC–8555. A communication from the Assistant Administrator for Fisheries, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Emergency Rule Extension, Pollock Catch Limit Revisions'' (RIN0648-AW86) received in the Office of the President of the Senate on December 16, 2010; to the Committee on Commerce, Science, and Transportation.

EC–8556. A communication from the Deputy Assistant Administrator for Regulatory Programs, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery Off the Southern Atlantic States; Amendment 17A'' (RIN0648-AY10) received in the Office of the President of the Senate on December 16, 2010; to the Committee on Commerce, Science, and Transportation.

EC–8557. A communication from the Deputy Assistant Administrator for Regulatory Programs, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Atlantic Highly Migratory Species; 2011 Commercial Fishing Season and Adaptive Management Measures for the Atlantic Shark Fishery'' (RIN0648-AY98) received in the Office of the President of the Senate on December 16, 2010; to the Committee on Commerce, Science, and Transportation.

EC–8558. A communication from the Deputy Assistant Administrator for Regulatory Programs, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Red Grouper Management Measures'' (RIN0648-BA04) received in the Office of the President of the Senate on December 16, 2010; to the Committee on Commerce, Science, and Transportation.

EC–8559. A communication from the Deputy Assistant Administrator for Regulatory Programs, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Northeastern United States; Discard Provision for Herring Midwater Trawl Vessels Fishing in Groundfish Closed Area I'' (RIN0648-BA16) received in the Office of the President of the Senate on December 16, 2010; to the Committee on Commerce, Science, and Transportation.

EC–8560. A communication from the Deputy Assistant Administrator for Operations, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''International Fisheries; South Pacific Tuna Fisheries; Procedures to Request Licenses and a System to Allocate Licenses'' (RIN0648-AY91) received in the Office of the President of the Senate on December 16, 2010; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LEAHY, from the Committee on the Judiciary:

Report to accompany S. 3804, A bill to combat online infringement, and for other purposes (Rept. No. 111–373).

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs:

Report to accompany S. 3650, A bill to amend chapter 21 of title 5, United States Code, to provide that fathers of certain permanently disabled or deceased veterans shall be included with mothers of such veterans as preference eligibles for treatment in the civil service (Rept. No. 111–374).

By Mrs. BOXER, from the Committee on Environment and Public Works, without amendment:

H.R. 2062. A bill to amend the Migratory Bird Treaty Act to provide for penalties and enforcement for intentionally taking protected avian species, and for other purposes (Rept. No. 111–375).

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, with an amendment in the nature of a substitute:

S. 1102. A bill to provide benefits to domestic partners of Federal employees (Rept. No. 111–376).

S. 1649. A bill to prevent the proliferation of weapons of mass destruction, to prepare for attacks using weapons of mass destruction, and for other purposes (Rept. No. 111–377).

By Mr. ROCKEFELLER, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 583. A bill to provide grants and loan guarantees for the development and construction of science parks to promote the clustering of innovation through high technology activities.

By Mr. ROCKEFELLER, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 773. A bill to ensure the continued free flow of commerce within the United States and with its global trading partners through secure cyber communications, to provide for the continued development and exploitation of the Internet and intranet communications for such purposes, to provide for the development of a cadre of information technology specialists to improve and maintain effective cybersecurity defenses against disruption, and for other purposes.

By Mr. ROCKEFELLER, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 1274. A bill to amend title 46, United States Code, to ensure that the prohibition on disclosure of maritime transportation security information is not used inappropriately to shield certain other information from public disclosure, and for other purposes.

S. 2764. A bill to reauthorize the Satellite Home Viewer Extension and Reuathorization Act of 2004, and for other purposes.

By Mr. ROCKEFELLER, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 2870. A bill to establish uniform administrative and enforcement procedures and penalties for the enforcement of the High Seas Driftnet Fishing Moratorium Protection Act and similar statutes, and for other purposes.

From the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 2889. A bill to reauthorize the Surface Transportation Board, and for other purposes.

By Mrs. BOXER, from the Committee on Environment and Public Works, without amendment:

S. 3481. A bill to amend the Federal Water Pollution Control Act to clarify Federal responsibility for stormwater pollution.

By Mr. ROCKEFELLER, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 3566. A bill to authorize certain maritime programs of the Department of Transportation, and for other purposes.

S. 3597. A bill to improve the ability of the National Oceanic and Atmospheric Administration, the Coast Guard, and coastal States to sustain healthy ocean and coastal ecosystems by maintaining and sustaining their capabilities relating to oil spill preparedness, prevention, response, restoration, and research, and for other purposes .

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. CASEY:

S. 4040. A bill to preserve Medicare beneficiary choice by restoring and expanding the Medicare open enrollment and disenrollment opportunities repealed by section 3204(a) of the Patient Protection and Affordable Care Act; to the Committee on Finance.

By Mr. MENENDEZ (for himself, Mr. DURBIN, and Mr. MERKLEY):

S. 4041. A bill to amend the Electronic Fund Transfer Act to provide protection for consumers who have prepaid cards, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Ms. KLOBUCHAR (for herself, Mr. CORNYN, and Mr. LEAHY):

S. 4042. A bill to permit the disclosure of certain information for the purpose of missing child investigations; to the Committee on the Judiciary.

By Mr. DODD (for himself, Mr. REED, Mr. DURBIN, and Mr. UDALL of New Mexico):

S. 4043. A bill to revise and extend provisions under the Garrett Lee Smith Memorial Act; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DODD (for himself and Mr. MENENDEZ):

S. 4044. A bill to reauthorize and strengthen the Combating Autism Act of 2006 (Public Law 109–416), to establish a National Institute of Autism Spectrum Disorders, to provide for the continuation of certain programs relating to autism, to establish programs to provide services to individuals with autism and the families of such individuals and to increase public education and awareness of autism, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SPECTER:

S. 4045. A bill to amend section 924 of title 18, United States Code, to clarify and strengthen the armed career criminal provisions, and for other purposes; to the Committee on the Judiciary.

By Mr. KERRY:

S. 4046. A bill to amend title VII of the Civil Rights Act of 1964 to establish provisions with respect to religious accommodations in employment, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BENNETT:

S. 4047. A bill to establish the Federal Acceleration of State Technologies Deployment Program and for related purposes; to the Committee on Commerce, Science, and Transportation.

By Mrs. FEINSTEIN (for herself and Mr. LEAHY):

S. 4048. A bill to extend expiring provisions of the USA PATRIOT Improvement and Reauthorization Act of 2005, the Intelligence Reform and Terrorism Prevention Act of 2004, and the FISA Amendments Act of 2008 until December 31, 2013, and for other purposes; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. COCHRAN (for himself and Mrs. LINCOLN):

S. Con. Res. 78. A concurrent resolution honoring the work and mission of the Delta Regional Authority on the occasion of the 10th anniversary of the Federal-State partnership created to uplift the 8-State Delta region; to the Committee on Environment and Public Works.

ADDITIONAL COSPONSORS

S. 416

At the request of Mrs. FEINSTEIN, the name of the Senator from New Mexico (Mr. UDALL) was added as a cosponsor of S. 416, a bill to limit the use of cluster munitions.

S. 3605

At the request of Mr. ROCKEFELLER, the name of the Senator from Delaware (Mr. COONS) was added as a cosponsor of S. 3605, a bill to invest in innovation through research and development, to improve the competitiveness of the United States, and for other purposes.

S. 3929

At the request of Mr. TESTER, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 3929, a bill to revise the Forest Service Recreation Residence Program as it applies to units of the National Forest System derived from the public domain by implementing a simple, equitable, and predictable procedure for determining cabin user fees, and for other purposes.

S. RES. 680

At the request of Mr. KERRY, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. Res. 680, a resolution supporting international tiger conservation efforts and the upcoming Global Tiger Summit in St. Petersburg, Russia.

S. RES. 698

At the request of Mrs. SHAHEEN, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. Res. 698, a resolution expressing the sense of the Senate with respect to the territorial integrity of Georgia and the situation within Georgia's internationally recognized borders.

AMENDMENT NO. 4814

At the request of Mr. JOHANNS, his name was added as a cosponsor of amendment No. 4814 proposed to Treaty Doc. 111–5, treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol.

At the request of Mr. THUNE, his name was added as a cosponsor of amendment No. 4814 proposed to Treaty Doc. 111–5, supra.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DODD (for himself, Mr. REED, Mr. DURBIN, and Mr. UDALL of New Mexico):

S. 4043. A bill to revise and extend provisions under the Garrett Lee Smith Memorial Act; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I rise today to introduce the Garrett Lee Smith Memorial Act, GLSMA, Reauthorization. Six years ago, my former colleague Senator Gordon Smith and I introduced the original GLSMA to address the public health challenge of youth suicide by providing funding to states, Indian tribes, colleges, and universities to develop suicide prevention and intervention programs. Our bill made great strides in combating the growing problem of youth suicide. However, our work remains unfinished. For this reason, joined by colleagues Senator JACK REED, SENATOR RICHARD DURBIN, and Senator TOM UDALL, I am introducing a reauthorization bill to strengthen the existing Federal, State, and local efforts.

Last year, more than 4,000 Americans between the ages of 15 to 24 died by suicide, making suicide the third leading cause of death for this age group and the second leading cause of death among college students. These numbers are devastating. During an economic crisis, the situation is becoming more dire for young adults across the country. Over the past two years, we have seen a substantial increase of calls into suicide crisis centers. Many of these centers are threatened with cutbacks in funding from State and local governments. Despite the success of GLSMA, the latest Indian Health Service numbers show that suicide is the second leading cause of death for American Indian and Alaska Native youth ages 10–24.

Youth suicide represents both a public and mental health tragedy—a tragedy that knows no geographic, racial, ethnic, cultural, or socioeconomic boundaries. Regrettably, it is one of the leading causes of death among our nation's children; however, suicide is preventable and its causes are treatable. It has been proven that early intervention in mental health problems leads to the most effective treatment. The funding provided through the Garrett Lee Smith Memorial Act supports critical resources our young people need to develop into healthy, happy adults.

The Garrett Lee Smith Memorial Act provides federal grants to promote the

development of statewide suicide early intervention and prevention strategies intended to identify and reach out to young people who need mental health services. In addition, this bill makes competitive grants available to colleges and universities to create or enhance the schools' mental and behavioral health programs. It is imperative that we reauthorize the GLSMA in order to ensure those who utilize those important programs continue getting the aid they need before it is too late.

Our reauthorization effort increases funding to the existing programs and make important policy changes to the campus grant program. Whereas the funding level for all three programs in fiscal year 2010 is $40 million, the reauthorization bill would bring the authorization level to $260 million over 5 years. As a result, this bill includes increased funding for the Suicide Prevention Resource Center and grants for state, Tribal, and campus prevention efforts. The reauthorization bill also incorporates changes which will allow for increased flexibility in the use of campus grant funds. The original GLSMA authorized the use of campus grant funds only for suicide prevention infrastructure, such as hotlines. The proposed changes would allow for additional flexibility in the use of these funds, including crisis counseling and training of campus staff and students. I believe that these uses are critical to suicide prevention efforts on campuses.

I would like to take a moment to honor Garrett Lee Smith, the namesake of this bill. Six years ago, Garrett's father, Senator Gordon Smith introduced the original bill with me. Three years later, along with Senator Jack Reed, we introduced the original reauthorization. Nothing can be said or done to bring back Gordon and Sharon Smith's son Garrett, but their steadfast support and tireless efforts on behalf of young adults with mental illnesses have given their son the legacy he deserves.

In addition, without the network of groups and individuals who have made it their mission to take on this fight, none of the progress we have made would have been possible. I have worked closely with these groups throughout my tenure in the Senate and I thank them for their support and assistance, and truly value the working relationship we have established.

It is my hope that introducing this reauthorization bill will build momentum for the efforts of my colleagues during the 112th Congress, and I would like to thank Senator REED, Senator DURBIN, and Senator TOM UDALL for their willingness to lead the charge into next Congress. Both of these Senators have been great partners on so many issues over the years and I am happy that they will be here next Congress to lead the efforts on this reauthorization.

The GLSMA has long been a bipartisan, bicameral bill. That must continue next Congress. I hope that my colleagues will support this important legislation. We must continue to build upon these successes and ensure more communities are better equipped to prevent youth suicide through the reauthorization of the GLSMA.

Mr. REED. Mr. President, I am pleased to join Senators DODD, DURBIN, and TOM UDALL in the introduction of the Garrett Lee Smith Memorial Reauthorization Act. This bill, which is dedicated to the son of our former colleague Senator Gordon Smith, would bolster the ability of the Substance Abuse and Mental Health Administration to help prevent suicide among our nation's youth.

My efforts during the original enactment of this law, and now this reauthorization, have been focused on enhancing suicide prevention programs on college campuses. Suicide is the second leading cause of death among college-age students in the United States, with some 1,100 deaths by suicide occurring in this age group each year. Indeed, we can and must do more to curb this trend.

The reauthorization bill we are introducing today would expand existing federally-funded efforts on campuses beyond outreach, education, and awareness about suicide and suicide prevention to include funding for services and the hiring of appropriately trained personnel. These provisions stem from a bill that I introduced in the 108th Congress, the Campus Care and Counseling Act, and I am pleased that they are included in the reauthorization efforts of this law. I thank Senator DODD for his leadership and hard work on this bill, and I look forward to continuing efforts with my colleagues to move this bill in the 112th Congress.

By Mr. DODD (for himself and Mr. MENENDEZ):

S. 4044. A bill reauthorize and strengthen the Combating Autism Act of 2006 (Public Law 109–416), to establish a National Institute of Autism Spectrum Disorders, to provide for the continuation of certain programs relating to autism, to establish programs to provide services to individuals with autism and the families of such individuals and to increase public education and awareness of autism, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I rise today to introduce the Combating Autism Act, CAA, Reauthorization. Six years ago, my former colleague Senator Rick Santorum and I introduced the original CAA to expand Federal investment for Autism research, services, treatment, and awareness efforts. The bill was signed into law by President Bush following a nearly unanimous Congressional vote. The original CAA made great strides in addressing the growing public health problem. However, our work remains unfinished and essential programs are set to expire in 2011. For this reason, joined by my colleague Senator ROBERT MENENDEZ, I am introducing a reauthorization bill to strengthen the existing federal, state, and local efforts.

Autism is one form of Autism Spectrum Disorder, ASD, a group of developmental disabilities caused by atypical brain development. It is a severe neurological disorder that affects language, cognition, emotional development, and the ability to relate and interact with others. Current estimates suggest that over 1 million Americans suffer from some form of autism.

Individuals with ASD tend to have challenges and difficulties with social and communication skills. Many people with ASD also have unique ways of learning, paying attention, or reacting to different sensations. ASD begins during early childhood and lasts throughout a person's life. As the name ''autism spectrum disorder'' implies, ASD covers a continuum of behaviors and abilities.

Autism is a profound condition that can have a devastating effect on children and their families. We as a nation must devote significantly increased resources to finding answers to the many questions surrounding autism. Families struggling to raise a child with autism deserve our support, and they deserve answers. The legislation we are working to reauthorize will help us continue the journey towards a better understanding of autism and better supporting those living with this difficult condition.

The original CAA represented the largest Federal investment of funding and programs for children and families with autism. The law expanded Federal investment for Autism research through NIH; services, diagnosis and treatment through HRSA; and surveillance and awareness efforts through the CDC. As a result of these efforts, we made significant advances in the understanding of autism. For example, we identified several autism susceptibility genes that are leading to drug discovery and earlier detection of infants at risk for ASD. Our Nation's researchers are now investigating the links between environmental exposures and autism. We improved methods for autism screening and recommendation for universal autism screening at well baby check-ups. We even developed effective early intervention methods for toddlers with autism.

Unfortunately, major provisions of CAA are set to sunset in 2011. Although some Federal efforts on autism would undoubtedly continue without a reauthorization, the autism community would experience a disastrous loss of momentum. Autism is the fastest growing developmental disability in the Nation. For unknown reasons, the number of children diagnosed with autism has skyrocketed in recent years, from one in 10,000 children born 15 years ago to approximately one in 110 children born today. Although it is more common than Down syndrome, childhood cancer, and cystic fibrosis, autism research currently receives less

funding than these other childhood diseases.

Our reauthorization bill would ensure that these critical programs continue, including CDC surveillance programs, HRSA intervention and training programs, and the Interagency Autism Coordinating Committee, IACC. We are building upon the success of the original CAA by making additional investments in an array of service related activities. We create a one-time, single year planning and multiyear service provision demonstration grant programs to States, public, or private nonprofit entities. We establish a national technical assistance center to gather and disseminate information on evidence-based treatments, interventions, and services; and, we authorize multiyear grants to provide interdisciplinary training, continuing education, technical assistance, and information to improve services rendered to individuals with ASD and their families.

Finally, we create a new National Institute of Autism Spectrum Disorders within NIH, to consolidate CCA funding and accelerate research focused on prevention, treatment, services, and cures. A cross-agency institute with an aggressive, coordinated, and targeted research agenda aimed at improving the lives of individuals with autism is needed to address the challenges posed by a complex condition that involves many areas of science and services research. It also will provide our research community with a more predictable and accountable budget environment for disorder affecting individuals on this scale.

Over the course of my career I have had the opportunity to meet with several families who are affected by Autism. The parents of children with this disorder are some of the most dedicated and perseverant I have ever worked with. They do more than simply rise to the challenge they have been presented with. They stand up and fight. They fight for themselves, they fight for their community, and they fight for generations to come, but most of all, they fight for their children. I want to thank these families and their children for sharing their stories and their strength with me. Their stories, anecdotes and struggles give a face to the people all across the country whose lives are touched by this important research, and hearing about them help us to do our jobs better. The CAA would be nothing without them.

Last but certainly not least, I would like to take this opportunity to thank the disability, and more specifically, the autism community and advocacy organizations who have worked tirelessly on this bill. The magnitude and importance of their work on this legislation and other related initiatives will never be properly recognized. There are few advocacy groups that pursue their goals and priorities with as much fervor and fortitude as this community. They have an incredibly challenging but critically important job, and I would like to thank them for their hard work and support throughout the years. None of this progress could have been made without them.

It is my hope that introducing this reauthorization bill will build momentum for the efforts of my colleagues during the 112th Congress, and I would like to thank Senator MENENDEZ for his willingness to lead the charge into next Congress. Senator MENENDEZ has been a great partner on so many issues over the years and I am happy that he will be here next Congress to lead the efforts on this reauthorization.

The CAA was a bipartisan, bicameral bill. That must continue next Congress. I hope that my colleagues will support this important legislation. We must continue to build upon these successes and ensure more communities are better equipped to address this complex public health issue.

By Mr. SPECTER:

S. 4045. A bill to amend section 924 of title 18, United States Code, to clarify and strengthen the armed career criminal provisions, and for other purposes; to the Committee on the Judiciary.

Mr. SPECTER. Mr. President, I have sought recognition to introduce today a bill that strengthens the Armed Career Criminal Act in response to a series of Supreme Court rulings, which wrongly have restricted when and how the Act is applied, and have caused unnecessary and costly litigation with inconsistent results throughout our Federal court system. The Department of Justice has provided extensive technical assistance in the drafting of this bill over many months. I am introducing this legislation, so the next Congress can have my views on this subject.

The Armed Career Criminal Act provides certain and harsh penalties for criminals who are considered especially dangerous because of their prior serious criminal convictions and subsequent possession of a firearm. It has proven to be one of the strongest crime fighting tools in protecting the public from repeat offenders who are armed.

The Act mandates a 15-year sentence for offenders who have already accumulated three prior convictions for a violent felony or serious drug offense, and are convicted in Federal court for possessing a firearm in violation of section 922(g) of title 18, United States Code. The Armed Career Criminal Act, also referred to as section 924(e) of title 18, United States Code, was part of the Omnibus Crime Control Act passed by the 98th Congress in 1984. The 99th Congress broadened its reach by expanding the crimes that trigger the mandatory 15 year sentence.

The Act provides Federal prosecutors with the ability to take the most dangerous and violent criminals—a small percentage responsible for as much as 70 percent of all crimes—out of circulation. Its effectiveness, however, has been seriously undermined by Supreme Court decisions that have severely limited its reach and needlessly complicated its application. Specifically, these decisions have unfairly restricted what documents a judge may review in order to determine whether a prior conviction triggers the Act's sentencing enhancement, and too narrowly restricted the Act's definition of violent crime. The bill I am introducing, called the Armed Career Criminal Sentencing Act of 2010, negates the impact of these rulings.

In Taylor v. United States, 495 U.S. 575, 1990, and Shepard v. United States, 544 U.S. 13 (2005), the Supreme Court has required that district courts apply a ''categorical approach'' when determining whether certain prior convictions trigger the enhanced sentence under section 924(e) of title 18, United States Code. This has led to increased litigation, as well as random and contradictory sentencing results. It has also put an unnecessary burden on the courts.

The ''categorical approach'' prevents Federal judges from looking at reliable evidence of the facts of qualifying prior convictions and instead only permits Federal judges to review the language of the statute of conviction and certain limited judicial records, such as the charging document, the jury instructions, and the change of plea colloquy. The Supreme Court of the United States has said that its reading of section 924(e) in this regard is colored, in part, by concern that to permit a more probing judicial inquiry could raise right-to-jury-trial issues because the sentence enhancement under section 924(e) increases the statutory maximum sentence of 10 years under section 922(g) to life imprisonment. Under Apprendi v. New Jersey, 530 U.S. 466, 490, 2000, a case decided after the enactment of the Armed Career Criminal Act, any facts, other than prior convictions, which may be used to increase the sentence of a defendant beyond the statutory maximum sentence must be proven to a jury beyond a reasonable doubt.

There have been frequent instances in which armed career criminals have not been sentenced consistent with congressional intent due to this Supreme Court precedent that has significantly narrowed the applicability of section 924(e) and prevented judges from exercising their historic sentencing discretion and judgment.

Few statutory sentencing issues have led to such costly and time-consuming litigation at every level of the Federal court system as the determination of whether the broad range of criminal offenses under State and local law qualify categorically as crimes of violence or serious drug trafficking offenses.

Among the 50 States and territories, there are significant disparities in the content and formulation of State and local criminal laws. There are also differing charging and recordkeeping practices. Based on such fortuities as this, the Supreme Court's precedent

has caused an irrational divergence of Armed Career Criminal Act sentences. Fundamental principles of equality and fair treatment, as well as the imperative of vigorously protecting public safety, require far more uniform administration and implementation of the sentencing provisions under section 924(e).

Federal judges are capable of examining and evaluating reliable evidence to determine if a particular conviction or series of convictions merits enhancement and should be entrusted to continue their historic role as sentencing fact finders.

The solution to this problem is simple. The bill I am introducing today eliminates the ''categorical approach'' and allows judges to return to their traditional sentencing roles and to make the sentencing judgments traditionally assigned to courts. The bill accomplishes this by lowering the maximum sentence under section 924(e) from life to 25 years, and increasing the maximum sentence under section 922(g) from 10 years to 25 years. Equalizing the maximum sentences for the two statutes means that when a judge enhances a sentence for a section 922(g) conviction, as permitted by section 924(e) for armed career criminals, the judge will not increase the statutory maximum sentence of section 922(g) and therefore necessarily avoids any implication of Apprendi principles. The Congressional Research Service has reviewed and agreed with this legal analysis.

Because sentences for violations of section 922(g) of title 18, United States Code, by individuals who are not armed career criminals will commonly fall in the range of 10 years or less by operation of the advisory sentencing guidelines and the reasonable judgment of the sentencing courts, I do not anticipate that there will be many resulting changes in the length of sentence for those individuals, although the increased statutory maximum will apply.

The Armed Career Criminal Act currently defines ''violent felony'' as ''any crime punishable by imprisonment for [more than] one year . . . that . . . (i) has as an element the use, attempted use, or threatened use of physical force against . . . another . . . or . . . (ii) is burglary, arson, or extortion, involves use of explosives, or otherwise involves conduct that presents a serious potential risk of physical injury to another.'' 18 U.S.C. § 924(e)(2)(B).

To date, the Supreme Court has decided four cases (with another to be argued next month) in an attempt to clarify which State and local violent crime offenses qualify as sentencing enhancements under the Armed Career Criminal Act. In all but one, the Court has too narrowly restricted the Act's definition of violent crime.

Despite the clear language in section 924(e)(2)(B)(ii) that a violent crime includes ''conduct that presents a serious potential risk of injury to another,'' the Court has read this so-called ''residual clause'' to only apply to crimes that typically involve purposeful, violent, and aggressive conduct—even though there is no such limiting language to be found in the statute's definition of violent crime.

Thus, in United States v. Begay, 553 U.S. 137, 2008, the Court found that 11 felony DUI convictions did not qualify as conduct that presents a serious risk of physical injury to another. In Chambers v. United States, 129 S. Ct. 687, 2009, the Court held that the crime of failure to report to prison, which is the crime of escape, was a ''far cry from the purposeful, violent, and aggressive conduct''' required to qualify as a violent crime.

The Supreme Court has also too narrowly restricted the violent felony definition in section 924(e)(2)(B)(i) by holding that the use of physical force against another as an element of a crime must include violent force. In Johnson v. United States, 130 S. Ct. 1265, 1271, 2010, the Supreme Court held that a battery conviction under Florida law did not qualify for the Act's sentencing enhancement because ''[w]e think it clear that in the context of a statutory definition of 'violent felony,' the phrase 'physical force' means violent force—that is, force capable of causing physical pain or injury to another person.'' Again, those words—violent force—are nowhere in the statute's definition.

The bill I am introducing today simply and clearly defines qualifying violent crime in two ways—by elements and by conduct—and does not require violent force, just physical force. It also removes the violent crime definition from the so-called ''residual clause'' to prevent limitations being read by the Court into its meaning. Under the bill, violent crime includes crimes that have as an element—the use, attempted use, or threatened use of physical force, however slight, against the person of another individual, or that serious bodily injury intentionally, knowingly, or recklessly resulted from the offense conduct.

The bill also defines violent crime to include offenses that, without regard to the formal elements of the crime, involved conduct that presented a serious potential risk of bodily injury to another or intentionally, knowingly, or recklessly resulted in serious bodily injury to another.

Finally, to ensure that an inflexible application of section 924(e) does not result in overly harsh results, this bill gives prosecutors the discretion to file a notice advising the defendant and the court whether the prosecutor will seek to invoke all, some, or none of the prior convictions of the defendant to trigger the penalty enhancement. This is done already for Federal drug penalty enhancements and works well.

By making these simple changes, we can be assured that fundamental principles of equality and fair treatment are followed, and that public safety will be vigorously protected. I urge my colleagues to pass the Armed Career Criminal Sentencing Act of 2010.

By Mr. KERRY:

S. 4046. A bill to amend title VII of the Civil Rights Act of 1964 to establish provisions with respect to religious accommodations in employment, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. KERRY. Mr. President, America was founded on the principle of religious freedom. Many of us are descended not just from the Pilgrims, but from so many others Catholics, Jews, and many more who fled persecution in search of a land where they could practice their religion and simply be who they are. Our very Constitution exists to secure the blessings of that freedom to ourselves and to our children.

Even so, charges of religious discrimination in the workplace have been on the rise for more than a decade. Between 1992 and 2007, the latest period for which we have data, claims of religious discrimination filed with the Equal Employment Opportunity Commission have more than doubled, from 1,388 to 2,880. There is no way to tell how many people simply quit their job rather than complain.

But in a Nation founded on freedom of religion, no American should ever have to choose between keeping a job and keeping faith with their cherished religious beliefs and traditions. I have been deeply involved in this issue since 1996 and once again I am introducing the Workplace Religious Freedom Act.

The Workplace Religious Freedom Act is designed to protect people who encounter on-the-job discrimination because of their religious beliefs and practices. It protects, within reason, time off for religious observances. It protects the wearing of yarmulkes, hijabs, turbans and Mormon garments—all the distinctive marks of religious practices, all the things that people of faith should never be forced to hide.

Writing religious freedom into law is not easy. I have been trying to make the Workplace Religious Freedom Act law for 15 years. I have worked with a range of partners from Senator Santorum and Senator BROWNBACK to Senator LIEBERMAN, and most recently Senator HATCH and I have been working together behind the scenes to move this issue forward. In doing so, it has been a difficult challenge to balance so many interests and legitimate concerns and to keep up with changing times.

This bill represents years of discussion about religious tolerance and equal treatment and is a compromise between many different views. I hope it serves as the beginning of a new discussion as to how we can move forward in the next Congress and beyond because addressing this issue is long overdue.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 4046

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Workplace Religious Freedom Act of 2010''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) In enacting title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) (referred to in this Act as ''title VII''), Congress—

(A) recognized the widespread incidence of and harm caused by religious discrimination in employment;

(B) expressly intended to establish that religion is a class protected from discrimination in employment, as race, color, sex, and national origin are protected classes; and

(C) recognized that, absent undue hardship, a covered employer's failure to reasonably accommodate an employee's religious practice is discrimination within the meaning of that title.

(2) Eradicating religious discrimination in employment is essential to reach the goal of full equal employment opportunity in the United States.

(3) In Trans World Airlines, Inc. v. Hardison, 432 U.S. 63 (1977), the Supreme Court held that an employer could deny an employee's request for religious accommodation based on any burden greater than a de minimus burden on the employer, and thus narrowed the scope of protection of title VII against religious discrimination in employment, contrary to the intent of Congress.

(4) As a consequence of the Hardison decision and resulting appellate and trial court decisions, discrimination against employees on the basis of religion in employment continues to be an unfortunate and unacceptable reality.

(5) Federal, State, and local government, and private employers have a history and have established a continuing pattern of discrimination in unreasonably denying religious accommodations in employment, including in the areas of garb, grooming, and scheduling.

(6) Although this Act addresses requests for accommodation with respect to garb, grooming, and scheduling due to employees' religious practices, enactment of this Act does not represent a determination that other religious accommodation requests do not deserve similar attention or future resolution by Congress.

(7) The Supreme Court has held in Fitzpatrick v. Bitzer, 427 U.S. 445 (1976) that Congress has clearly authorized Federal courts to award monetary damages in favor of a private individual against a State government found in violation of title VII, and this holding is supported by Quern v. Jordan, 440 U.S. 332 (1979).

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to address the history and widespread pattern of discrimination by private sector employers and Federal, State, and local government employers in unreasonably denying religious accommodations in employment, specifically in the areas of garb, grooming, and scheduling;

(2) to provide a comprehensive Federal prohibition of employment discrimination on the basis of religion, including that denial of accommodations, specifically in the areas of garb, grooming, and scheduling;

(3) to confirm Congress' clear and continuing intention to abrogate States' 11th amendment immunity from claims made under title VII; and

(4) to invoke congressional powers to prohibit employment discrimination, including the powers to enforce the 14th amendment, and to regulate interstate commerce pursuant to section 8 of article I of the Constitution, in order to prohibit discrimination on the basis of religion, including unreasonable denial of religious accommodations, specifically in the areas of garb, grooming, and scheduling.

SEC. 4. AMENDMENTS.

(a) DEFINITIONS.—Section 701(j) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(j)) is amended—

(1) by inserting ''(1)'' after ''(j)'';

(2) in paragraph (1), as so designated, by striking ''he is unable'' and inserting ''the employer is unable, after initiating and engaging in an affirmative and bona fide effort,''; and

(3) by adding at the end the following:

''(2) For purposes of paragraph (1), with respect to the practice of wearing religious clothing or a religious hairstyle, or of taking time off for a religious reason, an accommodation of such a religious practice—

''(A) shall not be considered to be a reasonable accommodation unless the accommodation removes the conflict between employment requirements and the religious practice of the employee;

''(B) shall be considered to impose an undue hardship on the conduct of the employer's business only if the accommodation imposes a significant difficulty or expense on the conduct of the employer's business when considered in light of relevant factors set forth in section 101(10)(B) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111(10)(B)) (including accompanying regulations); and

''(C) shall not be considered to be a reasonable accommodation if the accommodation requires segregation of an employee from customers or the general public.

''(3) In this subsection:

''(A) The term 'taking time off for a religious reason' means taking time off for a holy day or to participate in a religious observance.

''(B) The term 'wearing religious clothing or a religious hairstyle' means—

''(i) wearing religious apparel the wearing of which is part of the observance of the religious faith practiced by the individual;

''(ii) wearing jewelry or another ornament the wearing of which is part of the observance of the religious faith practiced by the individual;

''(iii) carrying an object the carrying of which is part of the observance of the religious faith practiced by the individual; or

''(iv) adopting the presence, absence, or style of a person's hair or beard the adoption of which is part of the observance of the religious faith practiced by the individual.''.

SEC. 5. EFFECTIVE DATE; APPLICATION OF AMENDMENTS; SEVERABILITY.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendments made by section 4 take effect on the date of enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—This Act and the amendments made by section 4 do not apply with respect to conduct occurring before the date of enactment of this Act.

(c) NO DIMINUTION OF RIGHTS.—With respect to religious practices not described in section 701(j)(2) of the Civil Rights Act of 1964, as amended by section 4(a)(3), nothing in this Act or an amendment made by this Act shall be construed to diminish any right that may exist, or remedy that may be available, on the day before the date of enactment of this Act, for discrimination in employment because of religion by reason of failure to provide a reasonable accommodation of a religious practice, pursuant to title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.).

(d) SEVERABILITY.—

(1) IN GENERAL.—If any provision of an amendment made by this Act, or any application of such provision to any person or circumstance, is held to be unconstitutional, the remainder of the amendments made by this Act and the application of the provision to any other person or circumstance shall not be affected.

(2) DEFINITION OF RELIGION.—If, in the course of determining a claim brought under title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.), a court holds that the application of the provision described in paragraph (1) to a person or circumstance is unconstitutional, the court shall determine the claim with respect to that person or circumstance by applying the definition of the term ''religion'' specified in section 701 of that Act (42 U.S.C. 2000e), as in effect on the day before the date of enactment of this Act.

By Mrs. FEINSTEIN (for herself and Mr. LEAHY):

S. 4048. A bill to extend expiring provisions of the USA PATRIOT Improvement and Reauthorization Act of 2005, the Intelligence Reform and Terrorism Prevention Act of 2004, and the FISA Amendments Act of 2008 until December 31, 2013, and for other purposes; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I am introducing today, on behalf of Senator LEAHY, Chairman of the Committee on the Judiciary and myself the FISA Sunsets Extension Act of 2010. Since early in this Congress, I have been working with Chairman LEAHY, both in my capacity as Chairman of the Select Committee on Intelligence and as a member of the Judiciary Committee, to enact legislation that extends expiring authorities for the collection of foreign intelligence against terrorists, proliferators, foreign powers, and spies, while ensuring that adequate safeguards exist for the protection of the civil liberties and privacy of Americans.

To that end, the Judiciary Committee reported, in October 2009, S. 1692, a bill that sought to accomplish two main objectives. One was to extend the life of three authorities under FISA which were then due to sunset on December 31, 2009, described as roving, lone wolf, and business records collection, all of which have been previously described to the Senate during the consideration of earlier extensions. Through two short-term measures, those sunsets have been extended to February 28, 2010.

The other main objective was to secure several amendments to statutes on intelligence collection that would improve the balance they strike between protecting national security and protecting civil liberties and privacy. In the course of this Congress, this second objective has been largely achieved through actions that have been taken by the Department of Justice and the FBI under administrative actions. On reviewing those actions, which have been described in a letter from the Attorney General to Chairman LEAHY on

December 9, 2010, Chairman LEAHY and I have determined that the one remaining action that we need to take legislatively this Congress is to extend the three important authorities that are now due to sunset on February 28, 2010. The Feinstein-Leahy bill will extend these sunsets to the same date as proposed in S. 1692, December 31, 2013. The Attorney General and the Director of National Intelligence have asked the Congress to extend these authorities.

Additionally, the authority established by the FISA Amendments Act of 2008, regarding collection of foreign intelligence against persons reasonably believed to be outside of the United States, is scheduled to sunset on December 31, 2012. The Feinstein-Leahy bill would extend that authority for one year, to December 31, 2013, so that all of the sunsets of authority under FISA occur on the same date. This will allow the Congress to consider all of the temporary authorities in conjunction.

By acting now on these approaching sunsets, Congress will ensure stability in the foreign intelligence collection system at a time of heightened threat levels and guarantee there are no inadvertent gaps in FISA collection at the beginning of next year.

I urge my colleagues to support this legislation so we can achieve enactment this session.

SUBMITTED RESOLUTIONS

SENATE CONCURRENT RESOLUTION 78—HONORING THE WORK AND MISSION OF THE DELTA REGIONAL AUTHORITY ON THE OCCASION OF THE 10TH ANNIVERSARY OF THE FEDERAL-STATE PARTNERSHIP CREATED TO UPLIFT THE 8-STATE DELTA REGION

Mr. COCHRAN (for himself and Mrs. LINCOLN) submitted the following concurrent resolution; which was referred to the Committee on Environment and Public Works:

S. CON. RES. 78

Whereas President Clinton, with the approval of Congress and the bipartisan support of congressional sponsors, representing the States of the Delta in both the House of Representatives and the Senate, launched the Delta Regional Authority on December 21, 2000, in an effort to alleviate the economic hardship facing the Delta region and to create a more level playing field for the counties and parishes of such States to compete for jobs and investment;

Whereas the Delta Regional Authority is a Federal-State partnership that serves 252 counties and parishes in parts of Alabama, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee;

Whereas the Delta region holds great promise for access and trade, as the region borders the world's greatest transportation arterial in the Mississippi River;

Whereas the Delta boasts a strong cultural heritage as the birthplace of the blues and jazz music and as home to world famous cuisine, which people throughout the United States and the world identify with the region;

Whereas the counties and parishes served by the Delta Regional Authority constitute an economically-distressed area facing challenges such as undeveloped infrastructure systems, insufficient transportation options, struggling education systems, migration out of the region, substandard health care, and the needs to develop, recruit, and retain a qualified workforce and to build strong communities that attract new industries and employment opportunities;

Whereas the Delta Regional Authority has made significant progress toward addressing such challenges during its first 10 years of work;

Whereas the Delta Regional Authority operates a highly successful grant program in each of the 8 States it serves, allowing cities, counties, and parishes to leverage money from other Federal agencies and private investors;

Whereas the Delta Regional Authority has invested nearly $86,200,000 into more than 600 projects during the first decade of existence, leveraging $1,400,000,000 in private sector investment and producing an overall 22 to 1 return on taxpayer dollars;

Whereas the Delta Regional Authority is working with partners to create or retain approximately 19,000 jobs and is bringing the critical infrastructure to sustain new water and sewer services for more than 43,000 families;

Whereas an independent report from the Department of Agriculture's Economic Research Service found that per capita income grew more rapidly in counties and parishes where the Delta Regional Authority had the greatest investment, showing that each additional dollar of Delta Regional Authority's per capita spending results in a $15 increase in personal income;

Whereas the Delta Regional Authority has developed a culture of transparency, passing 9 independent audits showing tangible results;

Whereas during its first 10 years, the Delta Regional Authority has laid a strong foundation for working with State Governors, Federal partners, community leaders, and private sector investors to capitalize on the region's strong points and serve as an economic multiplier for the 8-State region, helping communities tackle challenges and cultivating a climate conducive to job creation;

Whereas the Delta Regional Authority has expanded its regional initiatives in the areas of health care, transportation, leadership training, and information technology, and is also increasing efforts in the areas of small business development, entrepreneurship, and alternative energy jobs; and

Whereas the Delta Regional Authority stands prepared to use the groundwork established during its first decade as a springboard to create new opportunities for Delta communities in the future: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) recognizes the 10th anniversary of the founding of the Delta Regional Authority; and

(2) honors and celebrates the Delta Regional Authority's first decade of work to improve the economy and well-being of the 8-State Delta region, and the promise of the Delta Regional Authority's continued work in the future.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4833. Mr. INHOFE submitted an amendment intended to be proposed by him to Treaty Doc. 111–5 , Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table.

SA 4834. Mr. KERRY (for Mr. BAUCUS) proposed an amendment to the bill H.R. 5901, to amend the Internal Revenue Code of 1986 to authorize the tax court to appoint employees.

SA 4835. Mr. KERRY (for Mr. BAUCUS) proposed an amendment to the bill H.R. 5901, supra.

SA 4836. Mr. KERRY (for Mr. JOHANNS) proposed an amendment to the bill S. 1481, to amend section 811 of the Cranston–Gonzalez National Affordable Housing Act to improve the program under such section for supportive housing for persons with disabilities.

SA 4837. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 4827 proposed by Mr. REID to the bill H.R. 2965, to amend the Small Business Act with respect to the Small Business Innovation Research Program and the Small Business Technology Transfer Program, and for other purposes; which was ordered to lie on the table.

SA 4838. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 4827 proposed by Mr. REID to the bill H.R. 2965, supra; which was ordered to lie on the table.

SA 4839. Mr. RISCH (for himself, Mr. CORNYN, Mr. INHOFE, and Mr. LEMIEUX) submitted an amendment intended to be proposed by him to Treaty Doc. 111–5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table.

SA 4840. Mr. ENSIGN submitted an amendment intended to be proposed by him to Treaty Doc. 111–5 , supra; which was ordered to lie on the table.

SA 4841. Mr. THUNE submitted an amendment intended to be proposed by him to Treaty Doc. 111–5, supra; which was ordered to lie on the table.

SA 4842. Mr. THUNE submitted an amendment intended to be proposed by him to Treaty Doc. 111–5, supra; which was ordered to lie on the table.

SA 4843. Mr. BINGAMAN (for Mr. ROCKEFELLER (for himself, Mrs. HUTCHISON, Mr. BINGAMAN, Mr. ALEXANDER, Mr. LIEBERMAN, Mr. COONS, and Mr. BROWN of Massachusetts)) proposed an amendment to the bill H.R. 5116, to invest in innovation through research and development, to improve the competitiveness of the United States, and for other purposes.

SA 4844. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 5281, to amend title 28, United States Code, to clarify and improve certain provisions relating to the removal of litigation against Federal officers or agencies to Federal courts, and for other purposes; which was ordered to lie on the table.

SA 4845. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 303, to reauthorize and improve the Federal Financial Assistance Management Improvement Act of 1999; which was ordered to lie on the table.

SA 4846. Mr. VITTER (for himself, Mr. RISCH, Mr. INHOFE, and Mr. BARRASSO) submitted an amendment intended to be proposed by him to

Treaty Doc. 111–5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table.

SA 4847. Mr. LEMIEUX (for himself and Mr. CHAMBLISS) submitted an amendment intended to be proposed by him to Treaty Doc. 111–5, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 4833. Mr. INHOFE submitted an amendment intended to be proposed by him to Treaty Doc. 111–5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

In paragraph 2 of section VI of Part V of the Protocol to the New START Treaty, strike ''a total of no more than ten Type One inspections'' and insert ''a total of no more than thirty Type One inspections''.

In paragraph 2 of section VII of Part V of the Protocol to the New START Treaty, strike ''a total of no more than eight Type Two inspections'' and insert ''a total of no more than twenty-four Type Two inspections''.

SA 4834. Mr. KERRY (for Mr. BAUCUS) proposed an amendment to the bill H.R. 5901, to amend the Internal Revenue Code of 1986 to authorize the tax court to appoint employees; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. AUTHORITY OF TAX COURT TO APPOINT EMPLOYEES.

(a) IN GENERAL.—Subsection (a) of section 7471 of the Internal Revenue Code of 1986 (relating to employees) is amended to read as follows:

''(a) APPOINTMENT AND COMPENSATION.—

''(1) CLERK.—The Tax Court may appoint a clerk without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. The clerk shall serve at the pleasure of the Tax Court.

''(2) JUDGE-APPOINTED EMPLOYEES.—

''(A) IN GENERAL.—The judges and special trial judges of the Tax Court may appoint employees, in such numbers as the Tax Court may approve, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Any such employee shall serve at the pleasure of the appointing judge.

''(B) EXEMPTION FROM FEDERAL LEAVE PROVISIONS.—A law clerk appointed under this subsection shall be exempt from the provisions of subchapter I of chapter 63 of title 5, United States Code. Any unused sick leave or annual leave standing to the law clerk's credit as of the effective date of this subsection shall remain credited to the law clerk and shall be available to the law clerk upon separation from the Federal Government.

''(3) OTHER EMPLOYEES.—The Tax Court may appoint necessary employees without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Such employees shall be subject to removal by the Tax Court.

''(4) PAY.—The Tax Court may fix and adjust the compensation for the clerk and other employees of the Tax Court without regard to the provisions of chapter 51, subchapter III of chapter 53, or section 5373 of title 5, United States Code. To the maximum extent feasible, the Tax Court shall compensate employees at rates consistent with those for employees holding comparable positions in courts established under Article III of the Constitution of the United States.

''(5) PROGRAMS.—The Tax Court may establish programs for employee evaluations, incentive awards, flexible work schedules, premium pay, and resolution of employee grievances.

''(6) DISCRIMINATION PROHIBITED.—The Tax Court shall—

''(A) prohibit discrimination on the basis of race, color, religion, age, sex, national origin, political affiliation, marital status, or handicapping condition; and

''(B) promulgate procedures for resolving complaints of discrimination by employees and applicants for employment.

''(7) EXPERTS AND CONSULTANTS.—The Tax Court may procure the services of experts and consultants under section 3109 of title 5, United States Code.

''(8) RIGHTS TO CERTAIN APPEALS RESERVED.—Notwithstanding any other provision of law, an individual who is an employee of the Tax Court on the day before the effective date of this subsection and who, as of that day, was entitled to—

''(A) appeal a reduction in grade or removal to the Merit Systems Protection Board under chapter 43 of title 5, United States Code,

''(B) appeal an adverse action to the Merit Systems Protection Board under chapter 75 of title 5, United States Code,

''(C) appeal a prohibited personnel practice described under section 2302(b) of title 5, United States Code, to the Merit Systems Protection Board under chapter 77 of that title,

''(D) make an allegation of a prohibited personnel practice described under section 2302(b) of title 5, United States Code, with the Office of Special Counsel under chapter 12 of that title for action in accordance with that chapter, or

''(E) file an appeal with the Equal Employment Opportunity Commission under part 1614 of title 29 of the Code of Federal Regulations,

shall continue to be entitled to file such appeal or make such an allegation so long as the individual remains an employee of the Tax Court.

''(9) COMPETITIVE STATUS.—Notwithstanding any other provision of law, any employee of the Tax Court who has completed at least 1 year of continuous service under a non-temporary appointment with the Tax Court acquires a competitive status for appointment to any position in the competitive service for which the employee possesses the required qualifications.

''(10) MERIT SYSTEM PRINCIPLES, PROHIBITED PERSONNEL PRACTICES, AND PREFERENCE ELIGIBLES.—Any personnel management system of the Tax Court shall—

''(A) include the principles set forth in section 2301(b) of title 5, United States Code;

''(B) prohibit personnel practices prohibited under section 2302(b) of title 5, United States Code; and

''(C) in the case of any individual who would be a preference eligible in the executive branch, provide preference for that individual in a manner and to an extent consistent with preference accorded to preference eligibles in the executive branch.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date the United States Tax Court adopts a personnel management system after the date of the enactment of this Act.

SA 4835. Mr. KERRY (for Mr. BAUCUS) proposed an amendment to the bill H.R. 5901, to amend the Internal Revenue Code of 1986 to authorize the tax court to appoint employees; as follows:

Amend the title so as to read: ''An Act to amend the Internal Revenue Code of 1986 to authorize the tax court to appoint employees.''.

SA 4836. Mr. KERRY (for Mr. JOHANNS) proposed an amendment to the bill S. 1481, to amend section 811 of the Cranston-Gonzalez National Affordable Housing Act to improve the program under such section for supportive housing for persons with disabilities; as follows:

On page 19, line 9, strike ''811(k)(1) is amended by adding the following'' and insert the following: ''811(k) is amended—

''(1) in paragraph (1), by adding the following''

On page 19, line 16, strike the second period and insert the following: ''; and''.

On page 19, between lines 16 and 17, insert the following:

(2) in paragraph (4)—

(A) by striking ''prescribe, subject to the limitation under subsection (h)(6) of this section)'' and inserting ''prescribe)''; and

(B) by adding the following after the first sentence: ''Not later than the date that the Secretary prescribes a limit exceeding the 24 person limit in the previous sentence, the Secretary shall notify the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives of the limit or the intention to prescribe a limit in excess of 24 persons, together with a detailed explanation of the reason for the new limit.''.

On page 20, strike line 4 and all that follows through page 25, line 14, and insert the following:

SEC. 4. PROJECT RENTAL ASSISTANCE.

Section 811(b) is amended—

(1) in the matter preceding paragraph (1), by striking ''is authorized—'' and inserting ''is authorized to take the following actions:'';

(2) in paragraph (1)—

(A) by striking ''(1) to provide tenant-based'' and inserting ''(1) TENANT-BASED ASSISTANCE.—To provide tenant-based''; and

(B) by striking ''; and'' and inserting a period;

(3) in paragraph (2), by striking ''(2) to provide assistance'' and inserting ''(2) CAPITAL ADVANCES.—To provide assistance''; and

(4) by adding at the end the following:

''(3) PROJECT RENTAL ASSISTANCE.—

''(A) IN GENERAL.—To offer additional methods of financing supportive housing for non-elderly adults with disabilities, the Secretary shall make funds available for project rental assistance pursuant to subparagraph (B) for eligible projects under subparagraph (C). The Secretary shall provide for State housing finance agencies and other appropriate entities to apply to the Secretary for such project rental assistance funds, which shall be made available by such agencies and entities for dwelling units in eligible projects based upon criteria established by the Secretary. The Secretary may not require any State housing finance agency or other entity applying for such project rental assistance funds to identify in such application the eligible projects for which such

funds will be used, and shall allow such agencies and applicants to subsequently identify such eligible projects pursuant to the making of commitments described in subparagraph (C)(ii).

''(B) CONTRACT TERMS.—

''(i) CONTRACT TERMS.—Project rental assistance under this paragraph shall be provided—

''(I) in accordance with subsection (d)(2); and

''(II) under a contract having an initial term of not less than 180 months that provides funding for a term 60 months, which funding shall be renewed upon expiration, subject to the availability of sufficient amounts in appropriation Acts.

''(ii) LIMITATION ON UNITS ASSISTED.—Of the total number of dwelling units in any multifamily housing project containing any unit for which project rental assistance under this paragraph is provided, the aggregate number that are provided such project rental assistance, that are used for supportive housing for persons with disabilities, or to which any occupancy preference for persons with disabilities applies, may not exceed 25 percent of such total.

''(iii) PROHIBITION OF CAPITAL ADVANCES.—The Secretary may not provide a capital advance under subsection (d)(1) for any project for which assistance is provided under this paragraph.

''(iv) ELIGIBLE POPULATION.—Project rental assistance under this paragraph may be provided only for dwelling units for extremely low-income persons with disabilities and extremely low-income households that include at least one person with a disability.

''(C) ELIGIBLE PROJECTS.—An eligible project under this subparagraph is a new or existing multifamily housing project for which—

''(i) the development costs are paid with resources from other public or private sources; and

''(ii) a commitment has been made—

''(I) by the applicable State agency responsible for allocation of low-income housing tax credits under section 42 of the Internal Revenue Code of 1986, for an allocation of such credits;

''(II) by the applicable participating jurisdiction that receives assistance under the HOME Investment Partnership Act, for assistance from such jurisdiction; or

''(III) by any Federal agency or any State or local government, for funding for the project from funds from any other sources.

''(D) STATE AGENCY INVOLVEMENT.—Assistance under this paragraph may be provided only for projects for which the applicable State agency responsible for health and human services programs, and the applicable State agency designated to administer or supervise the administration of the State plan for medical assistance under title XIX of the Social Security Act, have entered into such agreements as the Secretary considers appropriate—

''(i) to identify the target populations to be served by the project;

''(ii) to set forth methods for outreach and referral; and

''(iii) to make available appropriate services for tenants of the project.

''(E) USE REQUIREMENTS.—In the case of any project for which project rental assistance is provided under this paragraph, the dwelling units assisted pursuant to subparagraph (B) shall be operated for not less than 30 years as supportive housing for persons with disabilities, in accordance with the application for the project approved by the Secretary, and such dwelling units shall, during such period, be made available for occupancy only by persons and households described in subparagraph (B)(iv).

''(F) REPORT.—Not later than 3 years after the date of the enactment of this paragraph, and again 2 years thereafter, the Secretary shall submit to Congress a report—

''(i) describing the assistance provided under this paragraph;

''(ii) analyzing the effectiveness of such assistance, including the effectiveness of such assistance compared to the assistance program for capital advances set forth under subsection (d)(1) (as in effect pursuant to the amendments made by such Act); and

''(iii) making recommendations regarding future models for assistance under this section.''.

On page 28, line 20, strike ''(l)'' and all that follows through ''Act)'' on line 21, and insert ''(k)''.

On page 29, strike line 1, and all that follows through page 30, line 23, and inserting the following:

(B) in paragraph (2), by striking the first sentence, and inserting the following: ''The term 'person with disabilities' means a household composed of one or more persons who is 18 years of age or older and less than 62 years of age, and who has a disability.'';

On page 31, line 23, strike ''(m)'' and all that follows through ''Act)'' on line 24, and insert ''(l)''.

On page 32, strike lines 7 through 24, and insert the following:

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

Subsection (m) of section 811 is amended to read as follows:

''(m) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for providing assistance pursuant to this section $300,000,000 for each of fiscal years 2011 through 2015.''.

On page 33, strike lines 1 through 9.

On page 33, line 10, strike ''**SEC. 8.**'' and insert ''**SEC. 7.**''

SA 4837. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 4827 proposed by Mr. REID to the bill H.R. 2965, to amend the Small Business Act with respect to the Small Business Innovation Research Program and the Small Business Technology Transfer Program, and for other purposes; which was ordered to lie on the table; as follows:

In section 2, as reported pursuant to Senate amendment 4827, strike ''subsection (f)'' each place it appears and insert ''subsection (g)''.

In subsection (b)(2) of such section, redesignate subparagraph (C) as subparagraph (D) and insert after subparagraph (B) the following new subparagraph (C):

(C) That the report required by subsection (e) regarding the costs of implementing a repeal of section 654 of title 10, United States Code, has been completed and received by the congressional defense committees.

Redesignate subsections (e) and (f) of such section as subsections (f) and (g), respectively, and insert after subsection (d) the following new subsection (e):

(e) REPORT.—The Secretary of Defense shall submit to the congressional defense committees a report setting forth a detailed estimate of the costs of implementing a repeal of section 654 of title 10, United States Code, through fiscal year 2015, including an estimate of the costs of implementing—

(1) training and education programs and related materials and contractor support; and

(2) increased or new personnel benefits related to housing, pay, allowances, and the establishment of new relationship statuses for benefits eligibility.

SA 4838. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 4827 proposed by Mr. REID to the bill H.R. 2965, to amend the Small Business Act with respect to the Small Business Innovation Research Program and the Small Business Technology Transfer Program, and for other purposes; which was ordered to lie on the table; as follows:

In section 2(b), as reported pursuant to Senate amendment 4827, strike the stem of paragraph (2) and paragraph (2)(A) and insert the following:

(2) The President transmits to the congressional defense committees a written certification, signed by the President, the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, and each of the Joint Chiefs of Staff, stating each of the following:

(A) That the President, the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, and each of the Joint Chiefs of Staff have considered the recommendations contained in the report and the report's proposed plan of action.

SA 4839. Mr. RISCH (for himself, Mr. CORNYN, Mr. INHOFE, and Mr. LEMIEUX) submitted an amendment intended to be proposed by him to Treaty Doc. 111–5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

In the preamble to the New START Treaty, insert after ''strategic offensive arms of the Parties,'' the following:

Acknowledging there is an interrelationship between non-strategic and strategic offensive arms, that as the number of strategic offensive arms is reduced this relationship becomes more pronounced and requires an even greater need for transparency and accountability, and that the disparity between the Parties' arsenals could undermine predictability and stability,

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SA 4840. Mr. ENSIGN submitted an amendment intended to be proposed by him to Treaty Doc. 111–5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

In Part One of the Protocol to the New START Treaty, in paragraph 45. (35.), strike ''and the self-propelled device on which it is mounted'' and insert ''and the self-propelled device or railcar or flatcar on which it is mounted''.

In Part One of the Protocol to the New START Treaty, in paragraph 57. (45.)(c), insert ''or railcar or flatcar'' after ''self-propelled device''.

SA 4841. Mr. THUNE submitted an amendment intended to be proposed by him to Treaty Doc. 111–5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

In section 1(a) of Article II of the Treaty, strike ''700, for deployed ICBMs, deployed SLBMs, and deployed heavy bombers'' and insert ''720, for deployed ICBMs, deployed SLBMs, and deployed heavy bombers''.

SA 4842. Mr. THUNE submitted an amendment intended to be proposed by him to Treaty Doc. 111–5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

In section 1 of Article II of the Treaty, strike ''(a) 700, for deployed ICBMs, deployed SLBMs, and deployed heavy bombers'' and all that follows through the period at the end of paragraph (c) and insert the following: ''(a) 800, for deployed ICBMs, deployed SLBMs, and deployed heavy bombers;

(b) 1550, for warheads on deployed ICBMs, warheads on deployed SLBMs, and nuclear warheads counted for deployed heavy bombers.

SA 4843. Mr. BINGAMAN (for Mr. ROCKEFELLER (for himself, Mrs. HUTCHISON, Mr. BINGAMAN, Mr. ALEXANDER, Mr. LIEBERMAN, Mr. COONS, and Mr. BROWN of Massachusetts)) proposed an amendment to the bill H.R. 5116, to invest in innovation through research and development, to improve the competitiveness of the United States, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—this Act may be cited as the ''America COMPETES Reauthorization Act of 2010'' or the ''America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science Reauthorization Act of 2010''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

SEC. 2. DEFINITIONS.

In this Act:

(1) DIRECTOR.—In title I, the term ''Director'' means the Director of the Office of Science and Technology Policy.

(2) STEM.—The term ''STEM'' means the academic and professional disciplines of science, technology, engineering, and mathematics.

SEC. 3. BUDGETARY IMPACT STATEMENT.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go-Act of 2010, shall be determined by reference to the latest statement titled ''Budgetary Effects of PAYGO Legislation'' for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

TITLE I—OFFICE OF SCIENCE AND TECHNOLOGY POLICY

SEC. 101. COORDINATION OF FEDERAL STEM EDUCATION.

(a) ESTABLISHMENT.—The Director shall establish a committee under the National Science and Technology Council, including the Office of Management and Budget, with the responsibility to coordinate Federal programs and activities in support of STEM education, including at the National Science Foundation, the Department of Energy, the National Aeronautics and Space Administration, the National Oceanic and Atmospheric Administration, the Department of Education, and all other Federal agencies that have programs and activities in support of STEM education.

(b) RESPONSIBILITIES.—The committee established under subsection (a) shall—

(1) coordinate the STEM education activities and programs of the Federal agencies;

(2) coordinate STEM education activities and programs with the Office of Management and Budget;

(3) encourage the teaching of innovation and entrepreneurship as part of STEM education activities;

(4) review STEM education activities and programs to ensure they are not duplicative of similar efforts within the Federal government;

(5) develop, implement through the participating agencies, and update once every 5 years a 5-year STEM education strategic plan, which shall—

(A) specify and prioritize annual and long-term objectives;

(B) specify the common metrics that will be used to assess progress toward achieving the objectives;

(C) describe the approaches that will be taken by each participating agency to assess the effectiveness of its STEM education programs and activities; and

(D) with respect to subparagraph (A), describe the role of each agency in supporting programs and activities designed to achieve the objectives; and

(6) establish, periodically update, and maintain an inventory of federally sponsored STEM education programs and activities, including documentation of assessments of the effectiveness of such programs and activities and rates of participation by women, underrepresented minorities, and persons in rural areas in such programs and activities.

(b) RESPONSIBILITIES OF OSTP.—The Director shall encourage and monitor the efforts of the participating agencies to ensure that the strategic plan under subsection (b)(5) is developed and executed effectively and that the objectives of the strategic plan are met.

(c) REPORT.—The Director shall transmit a report annually to Congress at the time of the President's budget request describing the plan required under subsection (b)(5). The annual report shall include—

(1) a description of the STEM education programs and activities for the previous and current fiscal years, and the proposed programs and activities under the President's budget request, of each participating Federal agency;

(2) the levels of funding for each participating Federal agency for the programs and activities described under paragraph (1) for the previous fiscal year and under the President's budget request;

(3) an evaluation of the levels of duplication and fragmentation of the programs and activities described under paragraph (1);

(4) except for the initial annual report, a description of the progress made in carrying out the implementation plan, including a description of the outcome of any program assessments completed in the previous year, and any changes made to that plan since the previous annual report; and

(5) a description of how the participating Federal agencies will disseminate information about federally supported resources for STEM education practitioners, including teacher professional development programs, to States and to STEM education practitioners, including to teachers and administrators in schools that meet the criteria described in subsection (c)(1)(A) and (B) of section 3175 of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381j(c)(1)(A) and (B)).

SEC. 102. COORDINATION OF ADVANCED MANUFACTURING RESEARCH AND DEVELOPMENT.

(a) INTERAGENCY COMMITTEE.—The Director shall establish or designate a Committee on Technology under the National Science and Technology Council. The Committee shall be responsible for planning and coordinating Federal programs and activities in advanced manufacturing research and development.

(b) RESPONSIBILITIES OF COMMITTEE.—The Committee shall—

(1) coordinate the advanced manufacturing research and development programs and activities of the Federal agencies;

(2) establish goals and priorities for advanced manufacturing research and development that will strengthen United States manufacturing;

(3) work with industry organizations, Federal agencies, and Federally Funded Research and Development Centers not represented on the Committee, to identify and reduce regulatory, logistical, and fiscal barriers within the Federal government and State governments that inhibit United States manufacturing;

(4) facilitate the transfer of intellectual property and technology based on federally supported university research into commercialization and manufacturing;

(5) identify technological, market, or business challenges that may best be addressed by public-private partnerships, and are likely to attract both participation and primary funding from industry;

(6) encourage the formation of public-private partnerships to respond to those challenges for transition to United States manufacturing; and

(7) develop, and update every 5 years, a strategic plan to guide Federal programs and activities in support of advanced manufacturing research and development, which shall—

(A) specify and prioritize near-term and long-term research and development objectives, the anticipated time frame for achieving the objectives, and the metrics for use in assessing progress toward the objectives;

(B) specify the role of each Federal agency in carrying out or sponsoring research and development to meet the objectives of the strategic plan;

(C) describe how the Federal agencies and Federally Funded Research and Development Centers supporting advanced manufacturing research and development will foster the transfer of research and development results into new manufacturing technologies and United States based manufacturing of new products and processes for the benefit of society to ensure national, energy, and economic security;

(D) describe how Federal agencies and Federally Funded Research and Development Centers supporting advanced manufacturing research and development will strengthen all levels of manufacturing education and training programs to ensure an adequate, well-trained workforce;

(E) describe how the Federal agencies and Federally Funded Research and Development Centers supporting advanced manufacturing research and development will assist small- and medium-sized manufacturers in developing and implementing new products and processes; and

(F) take into consideration the recommendations of a wide range of stakeholders, including representatives from diverse manufacturing companies, academia, and other relevant organizations and institutions.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Director shall transmit the strategic plan developed under subsection (b)(7) to the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Science and Technology, and shall transmit subsequent updates to those committees as appropriate.

SEC. 103. INTERAGENCY PUBLIC ACCESS COMMITTEE.

(a) ESTABLISHMENT.—The Director shall establish a working group under the National Science and Technology Council with the responsibility to coordinate Federal science agency research and policies related to the dissemination and long-term stewardship of the results of unclassified research, including digital data and peer-reviewed scholarly publications, supported wholly, or in part, by funding from the Federal science agencies.

(b) RESPONSIBILITIES.—The working group shall—

(1) identify the specific objectives and public interests that need to be addressed by any policies coordinated under (a);

(2) take into account inherent variability among Federal science agencies and scientific disciplines in the nature of research, types of data, and dissemination models;

(3) coordinate the development or designation of standards for research data, the structure of full text and metadata, navigation tools, and other applications to maximize interoperability across Federal science agencies, across science and engineering disciplines, and between research data and scholarly publications, taking into account existing consensus standards, including international standards;

(4) coordinate Federal science agency programs and activities that support research and education on tools and systems required to ensure preservation and stewardship of all forms of digital research data, including scholarly publications;

(5) work with international science and technology counterparts to maximize interoperability between United States based unclassified research databases and international databases and repositories;

(6) solicit input and recommendations from, and collaborate with, non-Federal stakeholders, including the public, universities, nonprofit and for-profit publishers, libraries, federally funded and non federally funded research scientists, and other organizations and institutions with a stake in long term preservation and access to the results of federally funded research;

(7) establish priorities for coordinating the development of any Federal science agency policies related to public access to the results of federally funded research to maximize the benefits of such policies with respect to their potential economic or other impact on the science and engineering enterprise and the stakeholders thereof;

(8) take into consideration the distinction between scholarly publications and digital data;

(9) take into consideration the role that scientific publishers play in the peer review process in ensuring the integrity of the record of scientific research, including the investments and added value that they make; and

(10) examine Federal agency practices and procedures for providing research reports to the agencies charged with locating and preserving unclassified research.

(c) PATENT OR COPYRIGHT LAW.—Nothing in this section shall be construed to undermine any right under the provisions of title 17 or 35, United States Code.

(d) APPLICATION WITH EXISTING LAW.—Nothing defined in section (b) shall be construed to affect existing law with respect to Federal science agencies' policies related to public access.

(e) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Director shall transmit a report to Congress describing—

(1) the specific objectives and public interest identified under (b)(1);

(2) any priorities established under subsection (b)(7);

(3) the impact the policies described under (a) have had on the science and engineering enterprise and the stakeholders, including the financial impact on research budgets;

(4) the status of any Federal science agency policies related to public access to the results of federally funded research; and

(5) how any policies developed or being developed by Federal science agencies, as described in subsection (a), incorporate input from the non-Federal stakeholders described in subsection (b)(6).

(f) FEDERAL SCIENCE AGENCY DEFINED.—For the purposes of this section, the term ''Federal science agency'' means any Federal agency with an annual extramural research expenditure of over $100,000,000.

SEC. 104. FEDERAL SCIENTIFIC COLLECTIONS.

(a) MANAGEMENT OF SCIENTIFIC COLLECTIONS.—The Office of Science and Technology Policy shall develop policies for the management and use of Federal scientific collections to improve the quality, organization, access, including online access, and long-term preservation of such collections for the benefit of the scientific enterprise. In developing those policies the Office of Science and Technology Policy shall consult, as appropriate, with—

(1) Federal agencies with such collections; and

(2) representatives of other organizations, institutions, and other entities not a part of the Federal Government that have a stake in the preservation, maintenance, and accessibility of such collections, including State and local government agencies, institutions of higher education, museums, and other entities engaged in the acquisition, holding, management, or use of scientific collections.

(b) CLEARINGHOUSE.—The Office of Science and Technology Policy, in consultation with relevant Federal agencies, shall ensure the development of an online clearinghouse for information on the contents of and access to Federal scientific collections.

(c) DISPOSAL OF COLLECTIONS.—The policies developed under subsection (a) shall—

(1) require that, before disposing of a scientific collection, a Federal agency shall—

(A) conduct a review of the research value of the collection; and

(B) consult with researchers who have used the collection, and other potentially interested parties, concerning—

(i) the collection's value for research purposes; and

(ii) possible additional educational uses for the collection; and

(2) include procedures for Federal agencies to transfer scientific collections they no longer need to researchers at institutions or other entities qualified to manage the collections.

(d) COST PROJECTIONS.—The Office of Science and Technology Policy, in consultation with relevant Federal agencies, shall develop a common set of methodologies to be used by Federal agencies for the assessment and projection of costs associated with the management and preservation of their scientific collections.

(e) SCIENTIFIC COLLECTION DEFINED.—In this section, the term ''scientific collection'' means a set of physical specimens, living or inanimate, created for the purpose of supporting science and serving as a long-term research asset, rather than for their market value as collectibles or their historical, artistic, or cultural significance, and, as appropriate and feasible, the associated specimen data and materials.

SEC. 105. PRIZE COMPETITIONS.

(a) IN GENERAL.—The Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.) is amended by adding at the end the following:

''SEC. 24. PRIZE COMPETITIONS.

''(a) DEFINITIONS.—In this section:

''(1) AGENCY.—The term 'agency' means a Federal agency.

''(2) DIRECTOR.—The term 'Director' means the Director of the Office of Science and Technology Policy.

''(3) FEDERAL AGENCY.—The term 'Federal agency' has the meaning given under section 4, except that term shall not include any agency of the legislative branch of the Federal Government.

''(4) HEAD OF AN AGENCY.—The term 'head of an agency' means the head of a Federal agency.

''(b) IN GENERAL.—Each head of an agency, or the heads of multiple agencies in cooperation, may carry out a program to award prizes competitively to stimulate innovation that has the potential to advance the mission of the respective agency.

''(c) PRIZES.—For purposes of this section, a prize may be one or more of the following:

''(1) A point solution prize that rewards and spurs the development of solutions for a particular, well-defined problem.

''(2) An exposition prize that helps identify and promote a broad range of ideas and practices that may not otherwise attract attention, facilitating further development of the idea or practice by third parties.

''(3) Participation prizes that create value during and after the competition by encouraging contestants to change their behavior or develop new skills that may have beneficial effects during and after the competition.

''(4) Such other types of prizes as each head of an agency considers appropriate to stimulate innovation that has the potential to advance the mission of the respective agency.

''(d) TOPICS.—In selecting topics for prize competitions, the head of an agency shall consult widely both within and outside the Federal Government, and may empanel advisory committees.

''(e) ADVERTISING.—The head of an agency shall widely advertise each prize competition to encourage broad participation.

''(f) REQUIREMENTS AND REGISTRATION.—For each prize competition, the head of an agency shall publish a notice in the Federal Register announcing—

''(1) the subject of the competition;

''(2) the rules for being eligible to participate in the competition;

''(3) the process for participants to register for the competition;

''(4) the amount of the prize; and

''(5) the basis on which a winner will be selected.

''(g) ELIGIBILITY.—To be eligible to win a prize under this section, an individual or entity—

''(1) shall have registered to participate in the competition under any rules promulgated by the head of an agency under subsection (f);

''(2) shall have complied with all the requirements under this section;

''(3) in the case of a private entity, shall be incorporated in and maintain a primary place of business in the United States, and in the case of an individual, whether participating singly or in a group, shall be a citizen or permanent resident of the United States; and

''(4) may not be a Federal entity or Federal employee acting within the scope of their employment.

''(h) CONSULTATION WITH FEDERAL EMPLOYEES.—An individual or entity shall not be deemed ineligible under subsection (g) because the individual or entity used Federal facilities or consulted with Federal employees during a competition if the facilities and employees are made available to all individuals and entities participating in the competition on an equitable basis.

''(i) LIABILITY.—

''(1) IN GENERAL.—

''(A) DEFINITION.—In this paragraph, the term 'related entity' means a contractor or subcontractor at any tier, and a supplier, user, customer, cooperating party, grantee, investigator, or detailee.

''(B) LIABILITY.—Registered participants shall be required to agree to assume any and all risks and waive claims against the Federal Government and its related entities, except in the case of willful misconduct, for any injury, death, damage, or loss of property, revenue, or profits, whether direct, indirect, or consequential, arising from their participation in a competition, whether the injury, death, damage, or loss arises through negligence or otherwise.

''(2) INSURANCE.—Participants shall be required to obtain liability insurance or demonstrate financial responsibility, in amounts determined by the head of an agency, for claims by—

''(A) a third party for death, bodily injury, or property damage, or loss resulting from an activity carried out in connection with participation in a competition, with the Federal Government named as an additional insured under the registered participant's insurance policy and registered participants agreeing to indemnify the Federal Government against third party claims for damages arising from or related to competition activities; and

''(B) the Federal Government for damage or loss to Government property resulting from such an activity.

''(3) EXCEPTION.—The head of an agency may not require a participant to waive claims against the administering entity arising out of the unauthorized use or disclosure by the agency of the intellectual property, trade secrets, or confidential business information of the participant.

''(j) INTELLECTUAL PROPERTY.—

''(1) PROHIBITION ON THE GOVERNMENT ACQUIRING INTELLECTUAL PROPERTY RIGHTS.—The Federal Government may not gain an interest in intellectual property developed by a participant in a competition without the written consent of the participant.

''(2) LICENSES.—The Federal Government may negotiate a license for the use of intellectual property developed by a participant for a competition.

''(k) JUDGES.—

''(1) IN GENERAL.—For each competition, the head of an agency, either directly or through an agreement under subsection (l), shall appoint one or more qualified judges to select the winner or winners of the prize competition on the basis described under subsection (f). Judges for each competition may include individuals from outside the agency, including from the private sector.

''(2) RESTRICTIONS.—A judge may not—

''(A) have personal or financial interests in, or be an employee, officer, director, or agent of any entity that is a registered participant in a competition; or

''(B) have a familial or financial relationship with an individual who is a registered participant.

''(3) GUIDELINES.—The heads of agencies who carry out competitions under this section shall develop guidelines to ensure that the judges appointed for such competitions are fairly balanced and operate in a transparent manner.

''(4) EXEMPTION FROM FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to any committee, board, commission, panel, task force, or similar entity, created solely for the purpose of judging prize competitions under this section.

''(1) ADMINISTERING THE COMPETITION.—The head of an agency may enter into an agreement with a private, nonprofit entity to administer a prize competition, subject to the provisions of this section.

''(m) FUNDING.—

''(1) IN GENERAL.—Support for a prize competition under this section, including financial support for the design and administration of a prize or funds for a monetary prize purse, may consist of Federal appropriated funds and funds provided by the private sector for such cash prizes. The head of an agency may accept funds from other Federal agencies to support such competitions. The head of an agency may not give any special consideration to any private sector entity in return for a donation.

''(2) AVAILABILITY OF FUNDS.—Notwithstanding any other provision of law, funds appropriated for prize awards under this section shall remain available until expended. No provision in this section permits obligation or payment of funds in violation of section 1341 of title 31, United States Code.

''(3) AMOUNT OF PRIZE.—

''(A) ANNOUNCEMENT.—No prize may be announced under subsection (f) until all the funds needed to pay out the announced amount of the prize have been appropriated or committed in writing by a private source.

''(B) INCREASE IN AMOUNT.—The head of an agency may increase the amount of a prize after an initial announcement is made under subsection (f) only if—

''(i) notice of the increase is provided in the same manner as the initial notice of the prize; and

''(ii) the funds needed to pay out the announced amount of the increase have been appropriated or committed in writing by a private source.

''(4) LIMITATION ON AMOUNT.—

''(A) NOTICE TO CONGRESS.—No prize competition under this section may offer a prize in an amount greater than $50,000,000 unless 30 days have elapsed after written notice has been transmitted to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science and Technology of the House of Representatives.

''(B) APPROVAL OF HEAD OF AGENCY.—No prize competition under this section may result in the award of more than $1,000,000 in cash prizes without the approval of the head of an agency.

''(n) GENERAL SERVICE ADMINISTRATION ASSISTANCE.—Not later than 180 days after the date of the enactment of the America COMPETES Reauthorization Act of 2010, the General Services Administration shall provide government wide services to share best practices and assist agencies in developing guidelines for issuing prize competitions. The General Services Administration shall develop a contract vehicle to provide agencies access to relevant products and services, including technical assistance in structuring and conducting prize competitions to take maximum benefit of the marketplace as they identify and pursue prize competitions to further the policy objectives of the Federal Government.

''(o) COMPLIANCE WITH EXISTING LAW.—

''(1) IN GENERAL.—The Federal Government shall not, by virtue of offering or providing a prize under this section, be responsible for compliance by registered participants in a prize competition with Federal law, including licensing, export control, and nonproliferation laws, and related regulations.

''(2) OTHER PRIZE AUTHORITY.— Nothing in this section affects the prize authority authorized by any other provision of law.

''(p) ANNUAL REPORT.—

''(1) IN GENERAL.—Not later than March 1 of each year, the Director shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science and Technology of the House of Representatives a report on the activities carried out during the preceding fiscal year under the authority in subsection (b).

''(2) INFORMATION INCLUDED.—The report for a fiscal year under this subsection shall include, for each prize competition under subsection (b), the following:

''(A) PROPOSED GOALS.—A description of the proposed goals of each prize competition.

''(B) PREFERABLE METHOD.—An analysis of why the utilization of the authority in subsection (b) was the preferable method of achieving the goals described in subparagraph (A) as opposed to other authorities available to the agency, such as contracts, grants, and cooperative agreements.

''(C) AMOUNT OF CASH PRIZES.—The total amount of cash prizes awarded for each prize competition, including a description of amount of private funds contributed to the program, the sources of such funds, and the manner in which the amounts of cash prizes awarded and claimed were allocated among the accounts of the agency for recording as obligations and expenditures.

''(D) SOLICITATIONS AND EVALUATION OF SUBMISSIONS.—The methods used for the solicitation and evaluation of submissions under each prize competition, together with an assessment of the effectiveness of such methods and lessons learned for future prize competitions.

''(E) RESOURCES.—A description of the resources, including personnel and funding, used in the execution of each prize competition together with a detailed description of the activities for which such resources were used and an accounting of how funding for execution was allocated among the accounts of the agency for recording as obligations and expenditures.

''(F) RESULTS.—A description of how each prize competition advanced the mission of the agency concerned.''.

(b) REPEAL OF SPACE ACT LIMITATION.—Section 314(a) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2459f-1 is amended by striking ''The Administration may carry out a program to award prizes only in conformity with this section.''.

TITLE II—NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

SEC. 201. NASA'S CONTRIBUTION TO INNOVATION AND COMPETITIVENESS.

It is the sense of Congress that a renewed emphasis on technology development would enhance current mission capabilities and enable future missions, while encouraging NASA, private industry, and academia to spur innovation. NASA's Innovative Partnership Program is a valuable mechanism to accelerate technology maturation and encourage the transfer of technology into the private sector.

SEC. 202. NASA'S CONTRIBUTION TO EDUCATION.

(a) SENSE OF CONGRESS.—It is the sense of Congress that NASA is uniquely positioned to interest students in science, technology, engineering, and mathematics, not only by the example it sets, but through its education programs.

(b) EDUCATIONAL PROGRAM GOALS.—NASA shall develop and maintain educational programs—

(1) to carry out and support research based programs and activities designed to increase student interest and participation in STEM, including students from minority and underrepresented groups;

(2) to improve public literacy in STEM;

(3) that employ proven strategies and methods for improving student learning and teaching in STEM;

(4) to provide curriculum support materials and other resources that—

(A) are designed to be integrated with comprehensive STEM education;

(B) are aligned with national science education standards;

(C) promote the adoption and implementation of high-quality education practices that build toward college and career-readiness; and

(5) to create and support opportunities for enhanced and ongoing professional development for teachers using best practices that improve the STEM content and knowledge of the teachers, including through programs linking STEM teachers with STEM educators at the higher education level.

SEC. 203. ASSESSMENT OF IMPEDIMENTS TO SPACE SCIENCE AND ENGINEERING WORKFORCE DEVELOPMENT FOR MINORITY AND UNDERREPRESENTED GROUPS AT NASA.

(a) ASSESSMENT.—The Administrator shall enter into an arrangement for an independent assessment of any impediments to space science and engineering workforce development for minority and underrepresented groups at NASA, including recommendations on—

(1) measures to address such impediments;

(2) opportunities for augmenting the impact of space science and engineering workforce development activities and for expanding proven, effective programs; and

(3) best practices and lessons learned, as identified through the assessment, to help maximize the effectiveness of existing and future programs to increase the participation of minority and underrepresented groups in the space science and engineering workforce at NASA.

(b) REPORT.—A report on the assessment carried out under subsection (a) shall be transmitted to the House of Representatives Committee on Science and Technology and the Senate Committee on Commerce, Science, and Transportation not later than 15 months after the date of enactment of this Act.

(c) IMPLEMENTATION.—To the extent practicable, the Administrator shall take all necessary steps to address any impediments identified in the assessment.

SEC. 204. INTERNATIONAL SPACE STATION'S CONTRIBUTION TO NATIONAL COMPETITIVENESS ENHANCEMENT.

(a) SENSE OF CONGRESS.—It is the sense of the Congress that the International Space Station represents a valuable and unique national asset which can be utilized to increase educational opportunities and scientific and technological innovation which will enhance the Nation's economic security and competitiveness in the global technology fields of endeavor. If the period for active utilization of the International Space Station is extended to at least the year 2020, the potential for such opportunities and innovation would be increased. Efforts should be made to fully realize that potential.

(b) EVALUATION AND ASSESSMENT OF NASA'S INTERAGENCY CONTRIBUTION.—Pursuant to the authority provided in title II of the America COMPETES Act (Public Law 110–69), the Administrator shall evaluate and, where possible, expand efforts to maximize NASA's contribution to interagency efforts to enhance science, technology, engineering, and mathematics education capabilities, and to enhance the Nation's technological excellence and global competitiveness. The Administrator shall identify these enhancements in the annual reports required by section 2001(e) of that Act (42 U.S.C. 16611a(e)).

(c) REPORT TO THE CONGRESS.—Within 120 days after the date of enactment of this Act, the Administrator shall provide to the House of Representatives Committee on Science and Technology and the Senate Committee

on Commerce, Science, and Transportation a report on the assessment made pursuant to subsection (a). The report shall include—

(1) a description of current and potential activities associated with utilization of the International Space Station which are supportive of the goals of educational excellence and innovation and competitive enhancement established or reaffirmed by this Act, including a summary of the goals supported, the number of individuals or organizations participating in or benefiting from such activities, and a summary of how such activities might be expanded or improved upon;

(2) a description of government and private partnerships which are, or may be, established to effectively utilize the capabilities represented by the International Space Station to enhance United States competitiveness, innovation and science, technology, engineering, and mathematics education; and

(3) a summary of proposed actions or activities to be undertaken to ensure the maximum utilization of the International Space Station to contribute to fulfillment of the goals and objectives of this Act, and the identification of any additional authority, assets, or funding that would be required to support such activities.

SEC. 205. STUDY OF POTENTIAL COMMERCIAL ORBITAL PLATFORM PROGRAM IMPACT ON SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS.

(a) IN GENERAL.—Section 1003 of the National Aeronautics and Space Administration Authorization Act of 2010 (42 U.S.C. 18421) is amended to read as follows:

''SEC. 1003. STUDY OF POTENTIAL COMMERCIAL ORBITAL PLATFORM PROGRAM IMPACT ON SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS.

''A fundamental and unique capability of NASA is in stimulating science, technology, engineering, and mathematics education in the United States. In ensuring maximum use of that capability, the Administrator shall carry out a study to—

''(1) identify the benefits of and lessons learned from ongoing and previous NASA orbital student programs including, at a minimum, the Get Away Special (GAS) and Earth Knowledge Acquired by Middle School Students (EarthKAM) programs, on science, technology, engineering, and mathematics education;

''(2) assess the potential impacts on science, technology, engineering, and mathematics education of a program that would facilitate the development of scientific and educational payloads involving United States students and educators and the flights of those payloads on commercially available orbital platforms, when available and operational, with the goal of providing frequent and regular payload launches;

''(3) identify NASA expertise, such as NASA science, engineering, payload development, and payload operations, that could be made available to facilitate a science, technology, engineering, and mathematics program using commercial orbital platforms; and

''(4) identify the issues that would need to be addressed before NASA could properly assess the merits and feasibility of the program described in paragraph (2).''.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 12, 2010.

SEC. 206. DEFINITIONS.

In this title:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of NASA.

(2) NASA.—The term ''NASA'' means the National Aeronautics and Space Administration.

TITLE III—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

SEC. 301. OCEANIC AND ATMOSPHERIC RESEARCH AND DEVELOPMENT PROGRAM.

Section 4001 of the America COMPETES Act (33 U.S.C. 893) is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''The Administrator''; and

(2) by adding at the end the following:

''(b) OCEANIC AND ATMOSPHERIC RESEARCH AND DEVELOPMENT PROGRAM.—The Administrator shall implement programs and activities—

''(1) to identify emerging and innovative research and development priorities to enhance United States competitiveness, support development of new economic opportunities based on NOAA research, observations, monitoring modeling, and predictions that sustain ecosystem services;

''(2) to promote United States leadership in oceanic and atmospheric science and competitiveness in the applied uses of such knowledge, including for the development and expansion of economic opportunities; and

''(3) to advance ocean, coastal, Great Lakes, and atmospheric research and development, including potentially transformational research, in collaboration with other relevant Federal agencies, academic institutions, the private sector, and nongovernmental programs, consistent with NOAA's mission to understand, observe, and model the Earth's atmosphere and biosphere, including the oceans, in an integrated manner.

''(c) REPORT.—No later than 12 months after the date of enactment of the America COMPETES Reauthorization Act of 2010, the Administrator, in consultation with the National Science Foundation or other such agencies with mature transformational research portfolios, shall develop and submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science and Technology that describes NOAA's strategy for enhancing transformational research in its research and development portfolio to increase United States competitiveness in oceanic and atmospheric science and technology. The report shall—

''(1) define 'transformational research';

''(2) identify emerging and innovative areas of research and development where transformational research has the potential to make significant and revolutionary –advancements in both understanding and U.S. science leadership;

''(3) describe how transformational research priorities are identified and appropriately –balanced in the context of NOAA's broader research portfolio;

''(4) describe NOAA's plan for developing a competitive peer review and priority-setting –process, funding mechanisms, performance and evaluation measures, and transition-to-operation guidelines for transformational research; and

''(5) describe partnerships with other agencies involved in transformational research.''.

SEC. 302. OCEANIC AND ATMOSPHERIC SCIENCE EDUCATION PROGRAMS.

Section 4002 of the America COMPETES Act (33 U.S.C. 893a) is amended—

(1) by striking ''the agency.'' in subsection (a) and inserting ''agency, with consideration given to the goal of promoting the participation of individuals from underrepresented groups in STEM fields and in promoting the acquisition and retention of highly qualified and motivated young scientists to complement and supplement workforce needs.'';

(2) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively;

(3) by inserting after subsection (a) the following:

''(b) EDUCATIONAL PROGRAM GOALS.—The education programs developed by NOAA shall, to the extent applicable—

''(1) carry out and support research based programs and activities designed to increase student interest and participation in STEM;

''(2) improve public literacy in STEM;

''(3) employ proven strategies and methods for improving student learning and teaching in STEM;

''(4) provide curriculum support materials and other resources that—

''(A) are designed to be integrated with comprehensive STEM education;

''(B) are aligned with national science education standards; and

''(C) promote the adoption and implementation of high-quality education practices that build toward college and career-readiness; and

''(5) create and support opportunities for enhanced and ongoing professional development for teachers using best practices that improves the STEM content and knowledge of the teachers, including through programs linking STEM teachers with STEM educators at the higher education level.'';

(4) by striking ''develop'' in subsection (c), as redesignated, and inserting ''maintain''; and

(5) by adding at the end thereof the following:

''(e) STEM DEFINED.—In this section, the term 'STEM' means the academic and professional disciplines of science, technology, engineering, and mathematics.''.

SEC. 303. WORKFORCE STUDY.

(a) IN GENERAL.—The Secretary of Commerce, in cooperation with the Secretary of Education, shall request the National Academy of Sciences to conduct a study on the scientific workforce in the areas of oceanic and atmospheric research and development. The study shall investigate—

(1) whether there is a shortage in the number of individuals with advanced degrees in oceanic and atmospheric sciences who have the ability to conduct high quality scientific research in physical and chemical oceanography, meteorology, and atmospheric modeling, and related fields, for government, nonprofit, and private sector entities;

(2) what Federal programs are available to help facilitate the education of students hoping to pursue these degrees;

(3) barriers to transitioning highly qualified oceanic and atmospheric scientists into Federal civil service scientist career tracks;

(4) what institutions of higher education, the private sector, and the Congress could do to increase the number of individuals with such post baccalaureate degrees;

(5) the impact of an aging Federal scientist workforce on the ability of Federal agencies to conduct high quality scientific research; and

(6) what actions the Federal government can take to assist the transition of highly qualified scientists into Federal career scientist positions and ensure that the experiences of retiring Federal scientists are adequately documented and transferred prior to retirement from Federal service.

(b) COORDINATION.—The Secretary of Commerce and the Secretary of Education shall consult with the heads of other Federal agencies and departments with oceanic and atmospheric expertise or authority in preparing the specifications for the study.

(c) REPORT.—No later than 18 months after the date of enactment of this Act, the Secretary of Commerce and the Secretary of Education shall transmit a joint report to

each committee of Congress with jurisdiction over the programs described in 4002(b) of the America COMPETES Act (33 U.S.C. 893a(b)), as amended by section 302 of this Act, detailing the findings and recommendations of the study and setting forth a prioritized plan to implement the recommendations.

(d) PROGRAM AND PLAN.—The Administrator of the National Oceanic and Atmospheric Administration shall evaluate the National Academy of Sciences study and develop a workforce program and plan to institutionalize the Administration's Federal science career pathways and address aging workforce issues. The program and plan shall be developed in consultation with the Administration's cooperative institutes and other academic partners to identify and implement programs and mechanisms to ensure that—

(1) sufficient highly qualified scientists are able to transition into Federal career scientist positions in the Administration's laboratories and programs; and

(2) the technical and management experiences of senior employees are documented and transferred before leaving Federal service.

TITLE IV—NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SEC. 401. SHORT TITLE.

This title may be cited as the ''National Institute of Standards and Technology Authorization Act of 2010''.

SEC. 402. AUTHORIZATION OF APPROPRIATIONS.

(a) FISCAL YEAR 2011.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary of Commerce $918,900,000 for the National Institute of Standards and Technology for fiscal year 2011.

(2) SPECIFIC ALLOCATIONS.—Of the amount authorized by paragraph (1)—

(A) $584,500,000 shall be authorized for scientific and technical research and services laboratory activities;

(B) $124,800,000 shall be authorized for the construction and maintenance of facilities; and

(C) $209,600,000 shall be authorized for industrial technology services activities, of which—

(i) $141,100,000 shall be authorized for the Manufacturing Extension Partnership program under sections 25 and 26 of such Act (15 U.S.C. 278k and 278l), of which not more than $5,000,000 shall be for the competitive grant program under section 25(f) of such Act; and

(ii) $10,000,000 shall be authorized for the Malcolm Baldrige National Quality Award program under section 17 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3711a).

(b) FISCAL YEAR 2012.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary of Commerce $970,800,000 for the National Institute of Standards and Technology for fiscal year 2012.

(2) SPECIFIC ALLOCATIONS.—Of the amount authorized by paragraph (1)—

(A) $661,100,000 shall be authorized for scientific and technical research and services laboratory activities;

(B) $84,900,000 shall be authorized for the construction and maintenance of facilities; and

(C) $224,800,000 shall be authorized for industrial technology services activities, of which—

(i) $155,100,000 shall be authorized for the Manufacturing Extension Partnership program under sections 25 and 26 of such Act (15 U.S.C. 278k and 278l), of which not more than $5,000,000 shall be for the competitive grant program under section 25(f) of such Act; and

(ii) $10,300,000 shall be authorized for the Malcolm Baldrige National Quality Award program under section 17 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3711a).

(c) FISCAL YEAR 2013.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary of Commerce $1,039,709,000 for the National Institute of Standards and Technology for fiscal year 2013.

(2) SPECIFIC ALLOCATIONS.—Of the amount authorized by paragraph (1)—

(A) $676,700,000 shall be authorized for scientific and technical research and services laboratory activities;

(B) $121,300,000 shall be authorized for the construction and maintenance of facilities; and

(C) $241,709,000 shall be authorized for industrial technology services activities, of which—

(i) $165,100,000 shall be authorized for the Manufacturing Extension Partnership program under sections 25 and 26 of such Act (15 U.S.C. 278k and 278l), of which not more than $5,000,000 shall be for the competitive grant program under section 25(f) of such Act; and

(ii) $10,609,000 shall be authorized for the Malcolm Baldrige National Quality Award program under section 17 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3711a).

SEC. 403. UNDER SECRETARY OF COMMERCE FOR STANDARDS AND TECHNOLOGY.

(a) ESTABLISHMENT.—The National Institute of Standards and Technology Act is amended by inserting after section 3 the following:

''SEC. 4. UNDER SECRETARY OF COMMERCE FOR STANDARDS AND TECHNOLOGY.

''(a) ESTABLISHMENT.—There shall be in the Department of Commerce an Under Secretary of Commerce for Standards and Technology (in this section referred to as the 'Under Secretary').

''(b) APPOINTMENT.—The Under Secretary shall be appointed by the President by and with the advice and consent of the Senate.

''(c) COMPENSATION.—The Under Secretary shall be compensated at the rate in effect for level III of the Executive Schedule under section 5314 of title 5, United States Code.

''(d) DUTIES.—The Under Secretary shall serve as the Director of the Institute and shall perform such duties as required of the Director by the Secretary under this Act or by law.

''(e) APPLICABILITY.—The individual serving as the Director of the Institute on the date of enactment of the National Institute of Standards and Technology Authorization Act of 2010 shall also serve as the Under Secretary until such time as a successor is appointed under subsection (b).''.

(b) CONFORMING AMENDMENTS.—

(1) TITLE 5, UNITED STATES CODE.—

(A) LEVEL III.—Section 5314 of title 5, United States Code, is amended by inserting before the item ''Associate Attorney General'' the following:

''Under Secretary of Commerce for Standards and Technology, who also serves as Director of the National Institute of Standards and Technology.''.

(B) LEVEL IV.—Section 5315 of title 5, United States Code, is amended by striking ''Director, National Institute of Standards and Technology, Department of Commerce.''.

(2) NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY ACT.—Section 5 of the National Institute of Standards and Technology Act (15 U.S.C. 274) is amended by striking the first, fifth, and sixth sentences.

SEC. 404. MANUFACTURING EXTENSION PARTNERSHIP.

(a) COMMUNITY COLLEGE SUPPORT.—Section 25(a) of the National Institute of Standards and Technology Act (15 U.S.C. 278k(a)) is amended—

(1) by striking ''and'' after the semicolon in paragraph (4);

(2) by striking ''Institute.'' in paragraph (5) and inserting ''Institute; and''; and

(3) by adding at the end the following:

''(6) providing to community colleges information about the job skills needed in small- and medium-sized manufacturing businesses in the regions they serve.''.

(b) INNOVATIVE SERVICES INITIATIVE.—Section 25 of such Act (15 U.S.C. 278k) is amended by adding at the end the following:

''(g) INNOVATIVE SERVICES INITIATIVE.—

''(1) ESTABLISHMENT.—The Director shall establish, within the Centers program under this section, an innovative services initiative to assist small- and medium-sized manufacturers in—

''(A) reducing their energy usage, greenhouse gas emissions, and environmental waste to improve profitability;

''(B) accelerating the domestic commercialization of new product technologies, including components for renewable energy and energy efficiency systems; and

''(C) identification of and diversification to new markets, including support for transitioning to the production of components for renewable energy and energy efficiency systems.

''(2) MARKET DEMAND.—The Director may not undertake any activity to accelerate the domestic commercialization of a new product technology under this subsection unless an analysis of market demand for the new product technology has been conducted.''.

(c) REPORTS.—Section 25 of such Act (15 U.S.C. 278k), as amended by subsection (b), is further amended by adding at the end the following:

''(h) REPORTS.—

''(1) IN GENERAL.—In submitting the 3-year programmatic planning document and annual updates under section 23, the Director shall include an assessment of the Director's governance of the program established under this section.

''(2) CRITERIA.—In conducting the assessment, the Director shall use the criteria established pursuant to the Malcolm Baldrige National Quality Award under section 17(d)(1)(C) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3711a(d)(1)(C)).''.

(d) HOLLINGS MANUFACTURING EXTENSION PARTNERSHIP PROGRAM COST-SHARING.—Section 25(c) of such Act (15 U.S.C. 278k(c)) is amended by adding at the end the following:

''(7) Not later than 90 days after the date of enactment of the National Institute of Standards and Technology Authorization Act of 2010, the Comptroller General shall submit to Congress a report on the cost share requirements under the program. The report shall—

''(A) discuss various cost share structures, including the cost share structure in place prior to such date of enactment, and the effect of such cost share structures on individual Centers and the overall program; and

''(B) include recommendations for how best to structure the cost share requirement to provide for the long-term sustainability of the program.''.

''(8) If consistent with the recommendations in the report transmitted to Congress under paragraph (7), the Secretary shall alter the cost structure requirements specified under paragraph (3)(B) and (5) provided that the modification does not increase the cost share structure in place before the date of enactment of the America COMPETES Reauthorization Act of 2010, or allow the Secretary to provide a Center more than 50 percent of the costs incurred by that Center.''.

(e) ADVISORY BOARD.—Section 25(e)(4) of such Act (15 U.S.C. 278k(e)(4)) is amended to read as follows:

''(4) FEDERAL ADVISORY COMMITTEE ACT APPLICABILITY.—

''(A) IN GENERAL.—In discharging its duties under this subsection, the MEP Advisory Board shall function solely in an advisory capacity, in accordance with the Federal Advisory Committee Act.

''(B) EXCEPTION.—Section 14 of the Federal Advisory Committee Act shall not apply to the MEP Advisory Board.'.

(f) DESIGNATION OF PROGRAM.—

(1) IN GENERAL.—Section 25 of the National Institute of Standards and Technology Act (15 U.S.C. 278k), as amended by subsection (c), is further amended by adding at the end the following:

''(i) DESIGNATION.—

''(1) HOLLINGS MANUFACTURING EXTENSION PARTNERSHIP.—The program under this section shall be known as the 'Hollings Manufacturing Extension Partnership'.

''(2) HOLLINGS MANUFACTURING EXTENSION CENTERS.—The Regional Centers for the Transfer of Manufacturing Technology created and supported under subsection (a) shall be known as the 'Hollings Manufacturing Extension Centers' (in this Act referred to as the 'Centers').''.

(2) CONFORMING AMENDMENT TO CONSOLIDATED APPROPRIATIONS ACT, 2005.—Division B of title II of the Consolidated Appropriations Act, 2005 (Public Law 108-447; 118 Stat. 2879; 15 U.S.C. 278k note) is amended under the heading ''INDUSTRIAL TECHNOLOGY SERVICES'' by striking ''2007: *Provided further*, That'' and all that follows through ''Extension Centers.'' and inserting ''2007.''.

(3) TECHNICAL AMENDMENTS.—

(A) Section 25(a) of the National Institute of Standards and Technology Act (15 U.S.C. 278k(a)) is amended in the matter preceding paragraph (1) by striking ''Regional Centers for the Transfer of Manufacturing Technology'' and inserting ''regional centers for the transfer of manufacturing technology''.

(B) Section 25 of such Act (15 U.S.C. 278k), as amended by subsection (f), is further amended by adding at the end the following:

''(j) COMMUNITY COLLEGE DEFINED.—In this section, the term 'community college' means an institution of higher education (as defined under section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))) at which the highest degree that is predominately awarded to students is an associate's degree.''.

(h) EVALUATION OF OBSTACLES UNIQUE TO SMALL MANUFACTURERS.—Section 25 of such Act (15 U.S.C. 278k), as amended by subsection (g), is further amended by adding at the end the following:

''(k) EVALUATION OF OBSTACLES UNIQUE TO SMALL MANUFACTURERS.—The Director shall—

''(1) evaluate obstacles that are unique to small manufacturers that prevent such manufacturers from effectively competing in the global market;

''(2) implement a comprehensive plan to train the Centers to address such obstacles; and

''(3) facilitate improved communication between the Centers to assist such manufacturers in implementing appropriate, targeted solutions to such obstacles.''.

(i) NIST ACT AMENDMENT.—Section 25(f)(3) of the National Institute of Standards and Technology Act (15 U.S.C. 278k(f)(3)) is amended by striking ''Director of the Centers program,'' and inserting ''Director of the Hollings MEP program,''.

SEC. 405. EMERGENCY COMMUNICATION AND TRACKING TECHNOLOGIES RESEARCH INITIATIVE.

(a) ESTABLISHMENT.—The Director shall establish a research initiative to support the development of emergency communication and tracking technologies for use in locating trapped individuals in confined spaces, such as underground mines, and other shielded environments, such as high-rise buildings or collapsed structures, where conventional radio communication is limited.

(b) ACTIVITIES.—In order to carry out this section, the Director shall work with the private sector and appropriate Federal agencies to—

(1) perform a needs assessment to identify and evaluate the measurement, technical standards, and conformity assessment needs required to improve the operation and reliability of such emergency communication and tracking technologies;

(2) support the development of technical standards and conformance architecture to improve the operation and reliability of such emergency communication and tracking technologies; and

(3) incorporate and build upon existing reports and studies on improving emergency communications.

(c) REPORT.—Not later than 18 months after the date of enactment of this Act, the Director shall submit to Congress and make publicly available a report describing the assessment performed under subsection (b)(1) and making recommendations about research priorities to address gaps in the measurement, technical standards, and conformity assessment needs identified by the assessment.

SEC. 406. BROADENING PARTICIPATION.

(a) RESEARCH FELLOWSHIPS.—Section 18 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–1) is amended by adding at the end the following:

''(c) UNDERREPRESENTED MINORITIES.—In evaluating applications for fellowships under this section, the Director shall give consideration to the goal of promoting the participation of underrepresented minorities in research areas supported by the Institute.''.

(b) POSTDOCTORAL FELLOWSHIP PROGRAM.—Section 19 of such Act (15 U.S.C. 278g–2) is amended by adding at the end the following: ''In evaluating applications for fellowships under this section, the Director shall give consideration to the goal of promoting the participation of underrepresented minorities in research areas supported by the Institute.''.

(c) TEACHER DEVELOPMENT.—Section 19A(c) of such Act (15 U.S.C. 278g–2a(c)) is amended by adding at the end the following: ''The Director shall give special consideration to an application from a teacher from a high-need school, as defined in section 200 of the Higher Education Act of 1965 (20 U.S.C. 1021).''.

SEC. 407. NIST FELLOWSHIPS.

(a) POST-DOCTORAL FELLOWSHIP PROGRAM.—Section 19 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-2) is amended by striking '', in conjunction with the National Academy of Sciences,''.

(b) RESEARCH FELLOWSHIPS.—Section 18(a) of that Act (15 USC 278g–1(a)) is amended by striking ''up to 1.5 percent of the''.

(c) COMMERCE, SCIENCE, AND TECHNOLOGY FELLOWSHIP PROGRAM.—Section 5163(d) of the Omnibus Trade and Competition Act of 1988 (15 U.S.C. 1533) is repealed.

SEC. 408. GREEN MANUFACTURING AND CONSTRUCTION.

The Director shall carry out a green manufacturing and construction initiative—

(1) to develop accurate sustainability metrics and practices for use in manufacturing;

(2) to advance the development of standards, including high performance green building standards, and the creation of an information infrastructure to communicate sustainability information about suppliers; and

(3) to move buildings toward becoming high performance green buildings, including improving energy performance, service life, and indoor air quality of new and retrofitted buildings through validated measurement data.

SEC. 409. DEFINITIONS.

In this title:

(1) DIRECTOR.—The term ''Director'' means the Director of the National Institute of Standards and Technology.

(2) FEDERAL AGENCY.—The term ''Federal agency'' has the meaning given such term in section 4 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703).

(3) HIGH PERFORMANCE GREEN BUILDING.—The term ''high performance green building'' has the meaning given that term by section 401(13) of the Energy Independence and Security Act of 2009 (42 U.S.C. 17061(13)).

TITLE V—SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS SUPPORT PROGRAMS

SUBTITLE A—NATIONAL SCIENCE FOUNDATION

SEC. 501. SHORT TITLE.

This subtitle may be cited as the ''National Science Foundation Authorization Act of 2010''.

SEC. 502. DEFINITIONS.

In this subtitle:

(1) DIRECTOR.—The term ''Director'' means the Director of the National Science Foundation.

(2) EPSCoR.—The term ''EPSCoR'' means the Experimental Program to Stimulate Competitive Research.

(3) FOUNDATION.—The term ''Foundation'' means the National Science Foundation established under section 2 of the National Science Foundation Act of 1950 (42 U.S.C. 1861).

(4) INSTITUTION OF HIGHER EDUCATION.—The term ''institution of higher education'' has the meaning given such term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(5) STATE.—The term ''State'' means one of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or any other territory or possession of the United States.

(6) UNITED STATES.—The term ''United States'' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States.

SEC. 503. AUTHORIZATION OF APPROPRIATIONS.

(a) FISCAL YEAR 2011.—

(1) IN GENERAL.—There are authorized to be appropriated to the Foundation $7,424,400,000 for fiscal year 2011.

(2) SPECIFIC ALLOCATIONS.—Of the amount authorized by paragraph (1)—

(A) $5,974,782,000 shall be made available to carry research and related activities;

(B) $937,850,000 shall be made available for education and human resources;

(C) $164,744,000 shall be made available for major research equipment and facilities construction;

(D) $327,503,000 shall be made available for agency operations and award management;

(E) $4,803,000 shall be made available for the Office of the National Science Board; and

(F) $14,718,000 shall be made available for the Office of Inspector General.

(b) FISCAL YEAR 2012.—

(1) IN GENERAL.—There are authorized to be appropriated to the Foundation $7,800,000,000 for fiscal year 2012.

(2) SPECIFIC ALLOCATIONS.—Of the amount authorized by paragraph (1)—

(A) $6,234,281,000 shall be made available to carry research and related activities;

(B) $978,959,000 shall be made available for education and human resources;

(C) $225,544,000 shall be made available for major research equipment and facilities construction;

(D) $341,676,000 shall be made available for agency operations and award management;

(E) $4,808,000 shall be made available for the Office of the National Science Board; and

(F) $14,732,000 shall be made available for the Office of Inspector General.

(c) FISCAL YEAR 2013.—

(1) IN GENERAL.—There are authorized to be appropriated to the Foundation $8,300,000,000 for fiscal year 2013.

(2) SPECIFIC ALLOCATIONS.—Of the amount authorized by paragraph (1)—

(A) $6,637,849,000 shall be made available to carry research and related activities;

(B) $1,041,762,000 shall be made available for education and human resources;

(C) $236,764,000 shall be made available for major research equipment and facilities construction;

(D) $363,670,000 shall be made available for agency operations and award management;

(E) $4,906,000 shall be made available for the Office of the National Science Board; and

(F) $15,049,000 shall be made available for the Office of Inspector General.

SEC. 504. NATIONAL SCIENCE BOARD ADMINISTRATIVE AMENDMENTS.

(a) STAFFING AT THE NATIONAL SCIENCE BOARD.—Section 4(g) of the National Science Foundation Act of 1950 (42 U.S.C. 1863(g)) is amended by striking ''not more than 5''.

(b) NATIONAL SCIENCE BOARD REPORTS.—Section 4(j)(2) of the National Science Foundation Act of 1950 (42 U.S.C. 1863(j)(2)) is amended by inserting ''within the authority of the Foundation (or otherwise as requested by the Congress or the President)'' after ''individual policy matters''.

(c) BOARD ADHERENCE TO SUNSHINE ACT.—Section 15(a)(2) of the National Science Foundation Authorization Act of 2002 (42 U.S.C. 1862n-5(a)(2)) is amended—

(1) by striking ''The Board'' and inserting ''To ensure transparency of the Board's entire decision-making process, including deliberations on Board business occurring within its various subdivisions, the Board''; and

(2) by adding at the end the following: ''The preceding requirement will apply to meetings of the full Board, whenever a quorum is present; and to meetings of its subdivisions, whenever a quorum of the subdivision is present.''.

SEC. 505. NATIONAL CENTER FOR SCIENCE AND ENGINEERING STATISTICS.

(a) ESTABLISHMENT.—There is established within the Foundation a National Center for Science and Engineering Statistics that shall serve as a central Federal clearinghouse for the collection, interpretation, analysis, and dissemination of objective data on science, engineering, technology, and research and development.

(b) DUTIES.—In carrying out subsection (a) of this section, the Director, acting through the Center shall—

(1) collect, acquire, analyze, report, and disseminate statistical data related to the science and engineering enterprise in the United States and other nations that is relevant and useful to practitioners, researchers, policymakers, and the public, including statistical data on—

(A) research and development trends;

(B) the science and engineering workforce;

(C) United States competitiveness in science, engineering, technology, and research and development; and

(D) the condition and progress of United States STEM education;

(2) support research using the data it collects, and on methodologies in areas related to the work of the Center; and

(3) support the education and training of researchers in the use of large-scale, nationally representative data sets.

(c) STATISTICAL REPORTS.—The Director or the National Science Board, acting through the Center, shall issue regular, and as necessary, special statistical reports on topics related to the national and international science and engineering enterprise such as the biennial report required by section 4(j)(1) of the National Science Foundation Act of 1950 (42 U.S.C. 1863(j)(1)) on indicators of the state of science and engineering in the United States.

SEC. 506. NATIONAL SCIENCE FOUNDATION MANUFACTURING RESEARCH AND EDUCATION.

(a) MANUFACTURING RESEARCH.—The Director shall carry out a program to award merit-reviewed, competitive grants to institutions of higher education to support fundamental research leading to transformative advances in manufacturing technologies, processes, and enterprises that will support United States manufacturing through improved performance, productivity, sustainability, and competitiveness. Research areas may include—

(1) nanomanufacturing;

(2) manufacturing and construction machines and equipment, including robotics, automation, and other intelligent systems;

(3) manufacturing enterprise systems;

(4) advanced sensing and control techniques;

(5) materials processing; and

(6) information technologies for manufacturing, including predictive and real-time models and simulations, and virtual manufacturing.

(b) MANUFACTURING EDUCATION.—In order to help ensure a well-trained manufacturing workforce, the Director shall award grants to strengthen and expand scientific and technical education and training in advanced manufacturing, including through the Foundation's Advanced Technological Education program.

SEC. 507. NATIONAL SCIENCE BOARD REPORT ON MID-SCALE INSTRUMENTATION.

(a) MID-SCALE RESEARCH INSTRUMENTATION NEEDS.—The National Science Board shall evaluate the needs, across all disciplines supported by the Foundation, for mid-scale research instrumentation that falls between the instruments funded by the Major Research Instrumentation program and the very large projects funded by the Major Research Equipment and Facilities Construction program.

(b) REPORT ON MID-SCALE RESEARCH INSTRUMENTATION PROGRAM.—Not later than 1 year after the date of enactment of this Act, the National Science Board shall submit to Congress a report on mid-scale research instrumentation at the Foundation. At a minimum, this report shall include—

(1) the findings from the Board's evaluation of instrumentation needs required under subsection (a), including a description of differences across disciplines and Foundation research directorates;

(2) a recommendation or recommendations regarding how the Foundation should set priorities for mid-scale instrumentation across disciplines and Foundation research directorates;

(3) a recommendation or recommendations regarding the appropriateness of expanding existing programs, including the Major Research Instrumentation program or the Major Research Equipment and Facilities Construction program, to support more instrumentation at the mid-scale;

(4) a recommendation or recommendations regarding the need for and appropriateness of a new, Foundation-wide program or initiative in support of mid-scale instrumentation, including any recommendations regarding the administration of and budget for such a program or initiative and the appropriate scope of instruments to be funded under such a program or initiative; and

(5) any recommendation or recommendations regarding other options for supporting mid-scale research instrumentation at the Foundation.

SEC. 508. PARTNERSHIPS FOR INNOVATION.

(a) IN GENERAL.—The Director shall carry out a program to award merit-reviewed, competitive grants to institutions of higher education to establish and to expand partnerships that promote innovation and increase the impact of research by developing tools and resources to connect new scientific discoveries to practical uses.

(b) PARTNERSHIPS.—

(1) IN GENERAL.—To be eligible for funding under this section, an institution of higher education must propose establishment of a partnership that—

(A) includes at least one private sector entity; and

(B) may include other institutions of higher education, public sector institutions, private sector entities, and nonprofit organizations.

(2) PRIORITY.—In selecting grant recipients under this section, the Director shall give priority to partnerships that include one or more institutions of higher education and at least one of the following:

(A) A minority serving institution.

(B) A primarily undergraduate institution.

(C) A 2-year institution of higher education.

(c) PROGRAM.—Proposals funded under this section shall seek—

(1) to increase the impact of the most promising research at the institution or institutions of higher education that are members of the partnership through knowledge transfer or commercialization;

(2) to increase the engagement of faculty and students across multiple disciplines and departments, including faculty and students in schools of business and other appropriate non-STEM fields and disciplines in knowledge transfer activities;

(3) to enhance education and mentoring of students and faculty in innovation and entrepreneurship through networks, courses, and development of best practices and curricula;

(4) to strengthen the culture of the institution or institutions of higher education to undertake and participate in activities related to innovation and leading to economic or social impact;

(5) to broaden the participation of all types of institutions of higher education in activities to meet STEM workforce needs and promote innovation and knowledge transfer; and

(6) to build lasting partnerships with local and regional businesses, local and State governments, and other relevant entities.

(d) ADDITIONAL CRITERIA.—In selecting grant recipients under this section, the Director shall also consider the extent to which the applicants are able to demonstrate evidence of institutional support for, and commitment to—

(1) achieving the goals of the program as described in subsection (c);

(2) expansion to an institution-wide program if the initial proposal is not for an institution-wide program; and

(3) sustaining any new innovation tools and resources generated from funding under this program.

(e) LIMITATION.—No funds provided under this section may be used to construct or renovate a building or structure.

SEC. 509. SUSTAINABLE CHEMISTRY BASIC RESEARCH.

The Director shall establish a Green Chemistry Basic Research program to award competitive, merit-based grants to support research into green and sustainable chemistry which will lead to clean, safe, and economical alternatives to traditional chemical products and practices. The research program shall provide sustained support for green chemistry research, education, and technology transfer through—

(1) merit-reviewed competitive grants to individual investigators and teams of investigators, including, to the extent practicable, young investigators, for research;

(2) grants to fund collaborative research partnerships among universities, industry, and nonprofit organizations;

(3) symposia, forums, and conferences to increase outreach, collaboration, and dissemination of green chemistry advances and practices; and

(4) education, training, and retraining of undergraduate and graduate students and professional chemists and chemical engineers, including through partnerships with industry, in green chemistry science and engineering.

SEC. 510. GRADUATE STUDENT SUPPORT.

(a) FINDING.—The Congress finds that—

(1) the Integrative Graduate Education and Research Traineeship program is an important program for training the next generation of scientists and engineers in team-based interdisciplinary research and problem solving, and for providing them with the many additional skills, such as communication skills, needed to thrive in diverse STEM careers; and

(2) the Integrative Graduate Education and Research Traineeship program is no less valuable to the preparation and support of graduate students than the Foundation's Graduate Research Fellowship program.

(b) EQUAL TREATMENT OF IGERT AND GRF.—Beginning in fiscal year 2011, the Director shall increase or, if necessary, decrease funding for the Foundation's Integrative Graduate Education and Research Traineeship program (or any program by which it is replaced) at least at the same rate as it increases or decreases funding for the Graduate Research Fellowship program.

(c) SUPPORT FOR GRADUATE STUDENT RESEARCH FROM THE RESEARCH ACCOUNT.—For each of the fiscal years 2011 through 2013, at least 50 percent of the total Foundation funds allocated to the Integrative Graduate Education and Research Traineeship program and the Graduate Research Fellowship program shall come from funds appropriated for Research and Related Activities.

(d) COST OF EDUCATION ALLOWANCE FOR GRF PROGRAM.—Section 10 of the National Science Foundation Act of 1950 (42 U.S.C. 1869) is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''The Foundation is authorized''; and

(2) by adding at the end the following:

''(b) AMOUNT.—The Director shall establish for each year the amount to be awarded for scholarships and fellowships under this section for that year. Each such scholarship and fellowship shall include a cost of education allowance of $12,000, subject to any restrictions on the use of cost of education allowance as determined by the Director.''.

SEC. 511. ROBERT NOYCE TEACHER SCHOLARSHIP PROGRAM.

(a) MATCHING REQUIREMENT.—Section 10A(h)(1) of the National Science Foundation Authorization Act of 2002 (42 U.S.C. 1862n-1a(h)(1)) is amended to read as follows:

''(1) IN GENERAL.—An eligible entity receiving a grant under this section shall provide, from non-Federal sources, to carry out the activities supported by the grant—

''(A) in the case of grants in an amount of less than $1,500,000, an amount equal to at least 30 percent of the amount of the grant, at least one half of which shall be in cash; and

''(B) in the case of grants in an amount of $1,500,000 or more, an amount equal to at least 50 percent of the amount of the grant, at least one half of which shall be in cash.''.

(b) RETIRING STEM PROFESSIONALS.—Section 10A(a)(2)(A) of the National Science Foundation Authorization Act of 2002 (42 U.S.C. 1862n-1a(a)(2)(A)) is amended by inserting ''including retiring professionals in those fields,'' after ''mathematics professionals,''.

SEC. 512 UNDERGRADUATE BROADENING PARTICIPATION PROGRAM.

The Foundation shall continue to support the Historically Black Colleges and Universities Undergraduate Program, the Louis Stokes Alliances for Minority Participation program, the Tribal Colleges and Universities Program, and Hispanic-serving institutions as separate programs.

SEC. 513. RESEARCH EXPERIENCES FOR HIGH SCHOOL STUDENTS.

The Director shall permit specialized STEM high schools conducting research to participate in major data collection initiatives from universities, corporations, or government labs under a research grant from the Foundation, as part of the research proposal.

SEC. 514. RESEARCH EXPERIENCES FOR UNDERGRADUATES.

(a) RESEARCH SITES.—The Director shall award grants, on a merit-reviewed, competitive basis, to institutions of higher education, nonprofit organizations, or consortia of such institutions and organizations, for sites designated by the Director to provide research experiences for 6 or more undergraduate STEM students for sites designated at primarily undergraduate institutions of higher education and 10 or more undergraduate STEM students for all other sites, with consideration given to the goal of promoting the participation of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b). The Director shall ensure that—

(1) at least half of the students participating in a program funded by a grant under this subsection at each site shall be recruited from institutions of higher education where research opportunities in STEM are limited, including 2-year institutions;

(2) the awards provide undergraduate research experiences in a wide range of STEM disciplines;

(3) the awards support a variety of projects, including independent investigator-led projects, interdisciplinary projects, and multi-institutional projects (including virtual projects);

(4) students participating in each program funded have mentors, including during the academic year to the extent practicable, to help connect the students' research experiences to the overall academic course of study and to help students achieve success in courses of study leading to a baccalaureate degree in a STEM field;

(5) mentors and students are supported with appropriate salary or stipends; and

(6) student participants are tracked, for employment and continued matriculation in STEM fields, through receipt of the undergraduate degree and for at least 3 years thereafter.

(b) INCLUSION OF UNDERGRADUATES IN STANDARD RESEARCH GRANTS.—The Director shall require that every recipient of a research grant from the Foundation proposing to include 1 or more students enrolled in certificate, associate, or baccalaureate degree programs in carrying out the research under the grant shall request support, including stipend support, for such undergraduate students as part of the research proposal itself rather than as a supplement to the research proposal, unless such undergraduate participation was not foreseeable at the time of the original proposal.

SEC. 515. STEM INDUSTRY INTERNSHIP PROGRAMS.

(a) IN GENERAL.—The Director may award grants, on a competitive, merit-reviewed basis, to institutions of higher education, or consortia thereof, to establish or expand partnerships with local or regional private sector entities, for the purpose of providing undergraduate students with integrated internship experiences that connect private sector internship experiences with the students' STEM coursework. The partnerships may also include industry or professional associations.

(b) INTERNSHIP PROGRAM.— The grants awarded under section (a) may include internship programs in the manufacturing sector.

(c) USE OF GRANT FUNDS.—Grants under this section may be used—

(1) to develop and implement hands-on learning opportunities;

(2) to develop curricula and instructional materials related to industry, including the manufacturing sector;

(3) to perform outreach to secondary schools;

(4) to develop mentorship programs for students with partner organizations; and

(5) to conduct activities to support awareness of career opportunities and skill requirements.

(d) PRIORITY.—In awarding grants under this section, the Director shall give priority to institutions of higher education or consortia thereof that demonstrate significant outreach to and coordination with local or regional private sector entities and Regional Centers for the Transfer of Manufacturing Technology established by section 25(a) of the National Institute of Standards and Technology Act (15 U.S.C. 278k(a)) in developing academic courses designed to provide students with the skills or certifications necessary for employment in local or regional companies.

(c) OUTREACH TO RURAL COMMUNITIES.—The Foundation shall conduct outreach to institutions of higher education and private sector entities in rural areas to encourage those entities to participate in partnerships under this section.

(d) COST-SHARE.—The Director shall require a 50 percent non-Federal cost-share from partnerships established or expanded under this section.

(e) RESTRICTION.—No Federal funds provided under this section may be used—

(1) for the purpose of providing stipends or compensation to students for private sector internships unless private sector entities match 75 percent of such funding; or

(2) as payment or reimbursement to private sector entities, except for institutions of higher education.

(f) REPORT.—Not less than 3 years after the date of enactment of this Act, the Director shall submit a report to Congress on the number and total value of awards made under this section, the number of students affected by those awards, any evidence of the effect of those awards on workforce preparation and jobs placement for participating students, and an economic and ethnic breakdown of the participating students.

SEC. 516. CYBER-ENABLED LEARNING FOR NATIONAL CHALLENGES.

The Director shall, in consultation with appropriate Federal agencies, identify ways to use cyber-enabled learning to create an innovative STEM workforce and to help retrain and retain our existing STEM workforce to address national challenges, including national security and competitiveness, and use technology to enhance or supplement laboratory based learning.

SEC. 517. EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE RESEARCH.

(a) FINDINGS.—The Congress finds that—

(1) The National Science Foundation Act of 1950 stated, ''it shall be an objective of the Foundation to strengthen research and education in the sciences and engineering, including independent research by individuals, throughout the United States, and to avoid undue concentration of such research and education,'';

(2) National Science Foundation funding remains highly concentrated, with 27 States and 2 jurisdictions, taken together, receiving only about 10 percent of all NSF research funding; each of these States received only a fraction of one percent of Foundation's research dollars each year;

(3) the Nation requires the talent, expertise, and research capabilities of all States in order to prepare sufficient numbers of scientists and engineers, remain globally competitive and support economic development.

(b) CONTINUATION OF PROGRAM.—The Director shall continue to carry out EPSCoR, with the objective of helping the eligible States to develop the research infrastructure that will make them more competitive for Foundation and other Federal research funding. The program shall continue to increase as the National Science Foundation funding increases.

(c) CONGRESSIONAL REPORTS.—The Director shall report to the appropriate committees of Congress on an annual basis, using the most recent available data—

(1) the total amount made available, by State, under EPSCoR;

(2) the amount of co-funding made available to EPSCoR States;

(3) the total amount of National Science Foundation funding made available to all institutions and entities within EPSCoR States; and

(4) efforts and accomplishments to more fully integrate the 29 EPSCoR jurisdictions in major activities and initiatives of the Foundation.

(d) COORDINATION OF EPSCOR AND SIMILAR FEDERAL PROGRAMS.—

(1) ANOTHER FINDING.—The Congress finds that a number of Federal agencies have programs, such as Experimental Programs to Stimulate Competitive Research and the National Institutes of Health Institutional Development Award program, designed to increase the capacity for and quality of science and technology research and training at academic institutions in States that historically have received relatively little Federal research and development funding.

(2) COORDINATION REQUIRED.—The EPSCoR Interagency Coordinating Committee, chaired by the National Science Foundation, shall—

(A) coordinate EPSCoR and Federal EPSCoR-like programs to maximize the impact of Federal support for building competitive research infrastructure, and in order to achieve an integrated Federal effort;

(B) coordinate agency objectives with State and institutional goals, to obtain continued non-Federal support of science and technology research and training;

(C) develop metrics to assess gains in academic research quality and competitiveness, and in science and technology human resource development;

(D) conduct a cross-agency evaluation of EPSCoR and other Federal EPSCoR-like programs and accomplishments, including management, investment, and metric-measuring strategies implemented by the different agencies aimed to increase the number of new investigators receiving peer-reviewed funding, broaden participation, and empower knowledge generation, dissemination, application, and national research and development competitiveness;

(E) coordinate the development and implementation of new, novel workshops, outreach activities, and follow-up mentoring activities among EPSCoR or EPSCoR-like programs for colleges and universities in EPSCoR States and territories in order to increase the number of proposals submitted and successfully funded and to enhance statewide coordination of EPSCoR and Federal EPSCoR-like programs;

(F) coordinate the development of new, innovative solicitations and programs to facilitate collaborations, partnerships, and mentoring activities among faculty at all levels in non-EPSCoR and EPSCoR States and jurisdictions;

(G) conduct an evaluation of the roles, responsibilities and degree of autonomy that program officers or managers (or the equivalent position) have in executing EPSCoR programs at the different Federal agencies and the impacts these differences have on the number of EPSCoR State and jurisdiction faculty participating in the peer review process and the percentage of successful awards by individual EPSCoR State jurisdiction and individual researcher; and

(H) conduct a survey of colleges and university faculty at all levels regarding their knowledge and understanding of EPSCoR, and their level of interaction with and knowledge about their respective State or Jurisdictional EPSCoR Committee.

(3) MEETINGS AND REPORTS.—The Committee shall meet at least twice each fiscal year and shall submit an annual report to the appropriate committees of Congress describing progress made in carrying out paragraph (2).

(e) FEDERAL AGENCY REPORTS.—Each Federal agency that administers an EPSCoR or Federal EPSCoR-like program shall submit to the OSTP as part of its Federal budget submission—

(1) a description of the program strategy and objectives;

(2) a description of the awards made in the previous year, including—

(A) the percentage of reviewers and number of new reviewers from EPSCoR States;

(B) the percentage of new investigators from EPSCoR States;

(C) the number of programs or large collaborator awards involving a partnership of organizations and institutions from EPSCoR and non-EPSCoR States; and

(3) an analysis of the gains in academic research quality and competitiveness, and in science and technology human resource development, achieved by the program in the last year.

(f) NATIONAL ACADEMY OF SCIENCES STUDY.—

(1) IN GENERAL.—The Director shall contract with the National Academy of Sciences to conduct a study on all Federal agencies that administer an Experimental Program to Stimulate Competitive Research or a program similar to the Experimental Program to Stimulate Competitive Research.

(2) MATTERS TO BE ADDRESSED.—The study conducted under paragraph (1) shall include the following:

(A) A delineation of the policies of each Federal agency with respect to the awarding of grants to EPSCoR States.

(B) The effectiveness of each program.

(C) Recommendations for improvements for each agency to achieve EPSCoR goals.

(D) An assessment of the effectiveness of EPSCoR States in using awards to develop science and engineering research and education, and science and engineering infrastructure within their States.

(E) Such other issues that address the effectiveness of EPSCoR as the National Academy of Sciences considers appropriate.

SEC. 518. SENSE OF THE CONGRESS REGARDING THE SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS TALENT EXPANSION PROGRAM.

It is the sense of the Congress that—

(1) the Science, Technology, Engineering, and Mathematics Talent Expansion Program established by the National Science Foundation Authorization Act of 2002 continues to be an effective program to increase the number of students, who are citizens or permanent residents of the United States, receiving associate or baccalaureate degrees in established or emerging fields within science, technology, engineering, and mathematics, and its authorization continues;

(2) the strategies employed continue to strengthen mentoring and tutoring between faculty and students and provide students with information and exposure to potential career pathways in science, technology, engineering, and mathematics areas;

(3) this highly competitive program awarded 145 Program implementation awards and 12 research projects in the first 6 years of operations; and

(4) the Science, Technology, Engineering, and Mathematics Talent Expansion Program should continue to be supported by the National Science Foundation.

SEC. 519. SENSE OF THE CONGRESS REGARDING THE NATIONAL SCIENCE FOUNDATION'S CONTRIBUTIONS TO BASIC RESEARCH AND EDUCATION.

(a) FINDINGS.—The Congress finds that—

(1) the National Science Foundation is an independent Federal agency created by Congress in 1950 to, among other things, promote the progress of science, to advance the national health, prosperity, and welfare, and to secure the national defense;

(2) the Foundation is the funding source for approximately 20 percent of all federally supported basic research conducted by America's colleges and universities, and is the major source of Federal backing for mathematics, computer science and other sciences;

(3) the America COMPETES Act of 2007 helped rejuvenate our focus on increasing basic research investment in the physical sciences, strengthening educational opportunities in the science, technology, engineering, and mathematics fields and developing a robust innovation infrastructure; and

(4) reauthorization of the America COMPETES Act should continue a robust investment in basic research and education and preserve the essence of the original Act by increasing the investment focus on science, technology, engineering, and mathematics basic research and education as a national priority.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) the National Science Foundation is the finest scientific foundation in the world, and is a vital agency that must support basic research needed to advance the United States into the 21st century;

(2) the National Science Foundation should focus Federal research and development resources primarily in the areas of science, technology, engineering, and mathematics basic research and education; and

(3) the National Science Foundation should strive to ensure that federally-supported research is of the finest quality, is ground breaking, and answers questions or solves

problems that are of utmost importance to society at large.

SEC. 520. ACADEMIC TECHNOLOGY TRANSFER AND COMMERCIALIZATION OF UNIVERSITY RESEARCH.

(a) IN GENERAL.—Any institution of higher education (as such term is defined in section 101(A) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))) that receives National Science Foundation research support and has received at least $25,000,000 in total Federal research grants in the most recent fiscal year shall keep, maintain, and report annually to the National Science Foundation the universal record locator for a public website that contains information concerning its general approach to and mechanisms for transfer of technology and the commercialization of research results, including—

(1) contact information for individuals and university offices responsible for technology transfer and commercialization;

(2) information for both university researchers and industry on the institution's technology licensing and commercialization strategies;

(3) success stories, statistics, and examples of how the university supports commercialization of research results;

(4) technologies available for licensing by the university where appropriate; and

(5) any other information deemed by the institution to be helpful to companies with the potential to commercialize university inventions.

(b) NSF WEBSITE.—The National Science Foundation shall create and maintain a website accessible to the public that links to each website mentioned under (a).

(c) TRADE SECRET INFORMATION.—Notwithstanding subsection (a), an institution shall not be required to reveal confidential, trade secret, or proprietary information on its website.

SEC. 521. STUDY TO DEVELOP IMPROVED IMPACT-ON-SOCIETY METRICS.

(a) IN GENERAL.—Within 180 days after the date of enactment of this Act, the Director of the National Science Foundation shall contract with the National Academy of Sciences to initiate a study to evaluate, develop, or improve metrics for measuring the potential impact-on-society, including—

(1) the potential for commercial applications of research studies funded in whole or in part by grants of financial assistance from the Foundation or other Federal agencies;

(2) the manner in which research conducted at, and individuals graduating from, an institution of higher education contribute to the development of new intellectual property and the success of commercial activities;

(3) the quality of relevant scientific and international publications; and

(4) the ability of such institutions to attract external research funding.

(b) REPORT.—Within 1 year after initiating the study required by subsection (a), the Director shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science and Technology setting forth the Director's findings, conclusions, and recommendations.

SEC. 522. NSF GRANTS IN SUPPORT OF SPONSORED POST-DOCTORAL FELLOWSHIP PROGRAMS.

The Director of the National Science Foundation may utilize funds appropriated to carry out grants to institutions of higher education (as such term is defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))) to provide financial support for post-graduate research in fields with potential commercial applications to match, in whole or in part, any private sector grant of financial assistance to any post-doctoral program in such a field of study.

SEC. 523. COLLABORATION IN PLANNING FOR STEWARDSHIP OF LARGE-SCALE FACILITIES.

It is the sense of Congress that—

(1) the Foundation should, in its planning for construction and stewardship of large facilities, coordinate and collaborate with other Federal agencies, including the Department of Energy's Office of Science, to ensure that joint investments may be made when practicable;

(2) in particular, the Foundation should ensure that it responds to recommendations by the National Academy of Sciences and working groups convened by the National Science and Technology Council regarding such facilities and opportunities for partnership with other agencies in the design and construction of such facilities; and

(3) for facilities in which research in multiple disciplines will be possible, the Director should include multiple units within the Foundation during the planning process.

SEC. 524. CLOUD COMPUTING RESEARCH ENHANCEMENT.

(a) RESEARCH FOCUS AREA.—The Director may support a national research agenda in key areas affected by the increased use of public and private cloud computing, including—

(1) new approaches, techniques, technologies, and tools for—

(A) optimizing the effectiveness and efficiency of cloud computing environments; and

(B) mitigating security, identity, privacy, reliability, and manageability risks in cloud-based environments, including as they differ from traditional data centers;

(2) new algorithms and technologies to define, assess, and establish large-scale, trustworthy, cloud-based infrastructures;

(3) models and advanced technologies to measure, assess, report, and understand the performance, reliability, energy consumption, and other characteristics of complex cloud environments; and

(4) advanced security technologies to protect sensitive or proprietary information in global-scale cloud environments.

(b) ESTABLISHMENT.—

(1) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Director shall initiate a review and assessment of cloud computing research opportunities and challenges, including research areas listed in subsection (a), as well as related issues such as—

(A) the management and assurance of data that are the subject of Federal laws and regulations in cloud computing environments, which laws and regulations exist on the date of enactment of this Act;

(B) misappropriation of cloud services, piracy through cloud technologies, and other threats to the integrity of cloud services;

(C) areas of advanced technology needed to enable trusted communications, processing, and storage; and

(D) other areas of focus determined appropriate by the Director.

(2) UNSOLICITED PROPOSALS.—The Director may accept unsolicited proposals that review and assess the issues described in paragraph (1). The proposals may be judged according to existing criteria of the National Science Foundation.

(c) REPORT.—The Director shall provide an annual report for not less than 5 consecutive years to Congress on the outcomes of National Science Foundation investments in cloud computing research, recommendations for research focus and program improvements, or other related recommendations. The reports, including any interim findings or recommendations, shall be made publicly available on the website of the National Science Foundation.

(d) NIST SUPPORT.—The Director of the National Institute of Standards and Technology shall—

(1) collaborate with industry in the development of standards supporting trusted cloud computing infrastructures, metrics, interoperability, and assurance; and

(2) support standards development with the intent of supporting common goals.

SEC. 525. TRIBAL COLLEGES AND UNIVERSITIES PROGRAM.

(a) IN GENERAL.—The Director shall continue to support a program to award grants on a competitive, merit-reviewed basis to tribal colleges and universities (as defined in section 316 of the Higher Education Act of 1965 (20 U.S.C. 1059c), including institutions described in section 317 of such Act (20 U.S.C. 1059d), to enhance the quality of undergraduate STEM education at such institutions and to increase the retention and graduation rates of Native American students pursuing associate's or baccalaureate degrees in STEM.

(b) PROGRAM COMPONENTS.—Grants awarded under this section shall support—

(1) activities to improve courses and curriculum in STEM;

(2) faculty development;

(3) stipends for undergraduate students participating in research; and

(4) other activities consistent with subsection (a), as determined by the Director.

(c) INSTRUMENTATION.—Funding provided under this section may be used for laboratory equipment and materials.

SEC. 526. BROADER IMPACTS REVIEW CRITERION.

(a) GOALS.—The Foundation shall apply a Broader Impacts Review Criterion to achieve the following goals:

(1) Increased economic competitiveness of the United States.

(2) Development of a globally competitive STEM workforce.

(3) Increased participation of women and underrepresented minorities in STEM.

(4) Increased partnerships between academia and industry.

(5) Improved pre-K–12 STEM education and teacher development.

(6) Improved undergraduate STEM education.

(7) Increased public scientific literacy.

(8) Increased national security.

(b) POLICY.—Not later than 6 months after the date of enactment of this Act, the Director shall develop and implement a policy for the Broader Impacts Review Criterion that—

(1) provides for educating professional staff at the Foundation, merit review panels, and applicants for Foundation research grants on the policy developed under this subsection;

(2) clarifies that the activities of grant recipients undertaken to satisfy the Broader Impacts Review Criterion shall—

(A) to the extent practicable employ proven strategies and models and draw on existing programs and activities; and

(B) when novel approaches are justified, build on the most current research results;

(3) allows for some portion of funds allocated to broader impacts under a research grant to be used for assessment and evaluation of the broader impacts activity;

(4) encourages institutions of higher education and other nonprofit education or research organizations to develop and provide, either as individual institutions or in partnerships thereof, appropriate training and programs to assist Foundation-funded principal investigators at their institutions in achieving the goals of the Broader Impacts Review Criterion as described in subsection (a); and

(5) requires principal investigators applying for Foundation research grants to provide evidence of institutional support for the

portion of the investigator's proposal designed to satisfy the Broader Impacts Review Criterion, including evidence of relevant training, programs, and other institutional resources available to the investigator from either their home institution or organization or another institution or organization with relevant expertise.

SEC. 527. TWENTY-FIRST CENTURY GRADUATE EDUCATION.

(a) IN GENERAL.—The Director shall award grants, on a competitive, merit-reviewed basis, to institutions of higher education to implement or expand research-based reforms in master's and doctoral level STEM education that emphasize preparation for diverse careers utilizing STEM degrees, including at diverse types of institutions of higher education, in industry, and at government agencies and research laboratories.

(b) USES OF FUNDS.—Activities supported by grants under this section may include—

(1) creation of multidisciplinary or interdisciplinary courses or programs for the purpose of improved student instruction and research in STEM;

(2) expansion of graduate STEM research opportunities to include interdisciplinary research opportunities and research opportunities in industry, at Federal laboratories, and at international research institutions or research sites;

(3) development and implementation of future faculty training programs focused on improved instruction, mentoring, assessment of student learning, and support of undergraduate STEM students;

(4) support and training for graduate students to participate in instructional activities beyond the traditional teaching assistantship, and especially as part of ongoing educational reform efforts, including at pre-K–12 schools, and primarily undergraduate institutions;

(5) creation, improvement, or expansion of innovative graduate programs such as science master's degree programs;

(6) development and implementation of seminars, workshops, and other professional development activities that increase the ability of graduate students to engage in innovation, technology transfer, and entrepreneurship;

(7) development and implementation of seminars, workshops, and other professional development activities that increase the ability of graduate students to effectively communicate their research findings to technical audiences outside of their own discipline and to nontechnical audiences;

(8) expansion of successful STEM reform efforts beyond a single academic unit to other STEM academic units within an institution or to comparable academic units at other institutions; and

(9) research on teaching and learning of STEM at the graduate level related to the proposed reform effort, including assessment and evaluation of the proposed reform activities and research on scalability and sustainability of approaches to reform.

(c) PARTNERSHIP.—An institution of higher education may partner with one or more other nonprofit education or research organizations, including scientific and engineering societies, for the purposes of carrying out the activities authorized under this section.

(d) SELECTION PROCESS.—

(1) APPLICATIONS.—An institution of higher education seeking a grant under this section shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require. The application shall include, at a minimum—

(A) a description of the proposed reform effort;

(B) in the case of applications that propose an expansion of a previously implemented reform effort at the applicant's institution or at other institutions, a description of the previously implemented reform effort;

(C) evidence of institutional support for, and commitment to, the proposed reform effort, including long-term commitment to implement successful strategies from the current reform effort beyond the academic unit or units included in the grant proposal or to disseminate successful strategies to other institutions; and

(D) a description of the plans for assessment and evaluation of the grant proposed reform activities.

(2) REVIEW OF APPLICATIONS.—In selecting grant recipients under this section, the Director shall consider at a minimum—

(A) the likelihood of success in undertaking the proposed effort at the institution submitting the application, including the extent to which the faculty, staff, and administrators of the institution are committed to making the proposed institutional reform a priority of the participating academic unit or units;

(B) the degree to which the proposed reform will contribute to change in institutional culture and policy such that a greater value is placed on preparing graduate students for diverse careers utilizing STEM degrees;

(C) the likelihood that the institution will sustain or expand the reform beyond the period of the grant; and

(D) the degree to which scholarly assessment and evaluation plans are included in the design of the reform effort.

SUBTITLE B—STEM-TRAINING GRANT PROGRAM

SEC. 551. PURPOSE.

The purpose of this subtitle is to replicate and implement programs at institutions of higher education that provide integrated courses of study in science, technology, engineering, or mathematics, and teacher education, that lead to a baccalaureate degree in science, technology, engineering, or mathematics with concurrent teacher certification.

SEC. 552. PROGRAM REQUIREMENTS.

The Director shall replicate and implement undergraduate degree programs under this subtitle that—

(1) are designed to recruit and prepare students who pursue a baccalaureate degree in science, technology, engineering, or mathematics to become certified as elementary and secondary teachers;

(2) require the education department (or its equivalent) and the departments or division responsible for preparation of science, technology, engineering, and mathematics majors at an institution of higher education to collaborate in establishing and implementing the program at that institution;

(3) require students participating in the program to enter the program through a field-based course and to continue to complete field-based courses supervised by master teachers throughout the program;

(4) hire sufficient teachers so that the ratio of students to master teachers in the program does not exceed 100 to 1;

(5) include instruction in the use of scientifically-based instructional materials and methods, assessments, pedagogical content knowledge (including the interaction between mathematics and science), the use of instructional technology, and how to incorporate State and local standards into the classroom curriculum;

(6) restrict to students participating in the program those courses that are specifically designed for the needs of teachers of science, technology, engineering, and mathematics; and

(7) require students participating in the program to successfully complete a final evaluation of their teaching proficiency, based on their classroom teaching performance, conducted by multiple trained observers, and a portfolio of their accomplishments.

SEC. 553. GRANT PROGRAM.

(a) IN GENERAL.—The Director shall establish a grant program to support programs at institutions of higher education to carry out the purpose of this subtitle.

(b) GEOGRAPHICAL CONSIDERATIONS.—In the administration of this subtitle, the Director shall take such steps as may be necessary to ensure that grants are equitably distributed across all regions of the United States, taking into account population density and other geographic and demographic considerations.

(c) AMOUNT OF GRANT.—Subject to the requirements of subsection (d), the Director may award grants annually on a competitive basis to institutions of higher education in the amount of $2,000,000, per institution of which—

(1) $1,500,000 shall be used—

(A) to design, implement, and evaluate a program that meets the requirements of section 552;

(B) to employ master teachers at the institution to oversee field experiences;

(C) to provide a stipend to mentor teachers participating in the program; and

(D) to support curriculum development and implementation strategies for science, technology, engineering, and mathematics content courses taught through the program; and

(2) up to $500,000 shall be set aside by the grantee for technical support and evaluation services from the institution whose programs will be replicated.

(d) ELIGIBILITY.—To be eligible to apply for a grant under this section, an institution of higher education shall—

(1) include former secondary school science, technology, engineering, or mathematics master teachers as faculty in its science department for this program;

(2) grant terminal degrees in science, technology, engineering, and mathematics; and

(3) have a process to be used in establishing partnerships with local educational agencies for placement of participating students in their field experiences, including a process for identifying mentor teachers working in local schools to supervise classroom field experiences in cooperation with university-based master teachers;

(4) maintain policies allowing flexible entry to the program throughout the undergraduate coursework;

(5) require that master teachers employed by the institution will supervise field experiences of students in the program;

(6) require that the program complies with State certification or licensing requirements and the requirements under section 9101(23) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801(23)) for highly qualified teachers;

(7) develop during the course of the grant a plan for long-term support and assessment of its graduates, which shall include—

(A) induction support for graduates in their first one to two years of teaching;

(B) systems to determine the teaching status of graduates and thereby determine retention rates; and

(C) methods to analyze the achievement of students taught by graduates, and methods to analyze classroom practices of graduates; and

(8) be able upon completion of the grant at the end of 5 years to fund essential program costs, including salaries of master teachers

and other necessary personnel, from recurring university budgets.

(e) APPLICATION REQUIREMENTS.—An institution of higher education seeking a grant under the program shall submit an application to the Director in such form, at such time, and containing such information and assurances as the Director may require, including—

(1) a description of the current rate at which individuals majoring in science, technology, engineering, and mathematics become certified as elementary and secondary teachers;

(2) a description for the institution's plan for increasing the numbers of students enrolled in and graduating from the program supported under this subtitle;

(3) a description of the institution's capacity to develop a program in which individuals majoring in science, technology, engineering, and mathematics can become certified as elementary and secondary teachers;

(4) identification of the organizational unit within the department or division of arts and sciences or the science department at the institution that will adopt teacher certification for elementary and secondary teachers as its primary mission;

(5) identification of core faculty within the department or division of arts and sciences or the science department at the institution to champion teacher preparation in their departments by teaching courses dedicated to preparing future elementary and secondary school teachers, helping create new degree plans, advising prospective students within their major, and assisting as needed with program administration;

(6) identification of core faculty in the education department or its equivalent at the institution to champion teacher preparation by creating and teaching courses specific to the preparation of science, technology, engineering, and mathematics and working closely with colleagues in the department or division of arts and sciences or the science department; and

(7) a description of involving practical, field-based experience in teaching and degree plans enabling students to graduate in 4 years with a major in science, technology, engineering, or mathematics and elementary or secondary school teacher certification.

(f) MATCHING REQUIREMENT.—An institution of higher education may not receive a grant under this section unless it provides, from non-federal sources, to carry out the activities supported by the grant, an amount that is not less than—

(1) 35 percent of the amount of the grant for the first fiscal year of the grant;

(2) 55 percent of the amount of the grant for the second and third fiscal years of the grant; and

(3) 75 percent of the amount of the grant for the fourth and fifth fiscal years of the grant.

(g) GUIDANCE.—Within 90 days after the date of enactment of this Act, the Director shall initiate a proceeding to promulgate guidance for the administration of the grant program established under subsection (a).

SEC. 554. GRANT OVERSIGHT AND ADMINISTRATION.

(a) IN GENERAL.—The Director may execute a contract for program oversight and fiscal management with an organization at an institution of higher education, a non-profit organization, or other entity that demonstrates capacity for and experience in—

(1) replicating 1 or more similar programs at regional or national levels;

(2) providing programmatic and technical implementation assistance for the program;

(3) performing data collection and analysis to ensure proper implementation and continuous program improvement; and

(4) providing accountability for results by measuring and monitoring achievement of programmatic milestones.

(b) OVERSIGHT RESPONSIBILITIES.—

(1) MANDATORY DUTIES.—If the Director executes a contract under subsection (a) with an organization for program oversight and fiscal management, the organization shall—

(A) ensure that a grant recipient faithfully replicates and implements the program or programs for which the grant is awarded;

(B) ensure that grant funds are used for the purposes authorized and that a grant recipient has a system in place to track and account for all Federal grant funds provided;

(C) provide technical assistance to grant recipients;

(D) collect and analyze data and report to the Director annually on the effects of the program on—

(i) the progress of participating students in achieving teaching competence and teaching certification;

(ii) the participation of students in the program by major, compared with local and State needs on secondary teachers by discipline; and

(iii) the participation of students in the program by demographic subgroup;

(E) collect and analyze data and report to the Director annually on the effects of the program on the academic achievement of elementary and secondary school students taught by graduates of programs funded by grants under this subtitle; and

(F) submit an annual report to the Director demonstrating compliance with the requirements of subparagraphs (A) through (E).

(2) DISCRETIONARY DUTIES.—At the request of the Director, the organization under contract under subsection (a) may assist the Director in evaluating grant applications.

(c) REPORTS TO CONGRESS.—The Director shall submit a copy of the annual report required by subsection (b)(1)(F) to the Senate Committee on Commerce, Science, and Transportation, the Senate Committee on Health, Education, Labor, and Pensions, the House of Representatives Committee on Science and Technology, and the House of Representatives Committee on Education and Labor.

SEC. 555. DEFINITIONS.

In this subtitle:

(1) FIELD-BASED COURSE.—The term ''field-based course'' means a course of instruction offered by an institution of higher education that includes a requirement that students teach a minimum of 3 lessons or sequences of lessons to elementary or secondary students.

(2) INSTITUTION OF HIGHER EDUCATION.—The term ''institution of higher education'' has the meaning given that term by section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

(3) MASTER TEACHER.—The term ''master teacher'' means an individual—

(A) who has been awarded a master's or doctoral degree by an institution of higher education;

(B) whose graduate coursework included courses in mathematics, science, computer science, or engineering;

(C) who has at least 3 years teaching experience in K-12 settings; and

(D) whose teaching has been recognized for exceptional accomplishments in educating students, or is demonstrated to have resulted in improved student achievement.

(4) MENTOR TEACHER.—The term ''mentor teacher'' means an elementary or secondary school classroom teacher who assists with the training of students participating in a field-based course.

(5) DIRECTOR.—The term ''Director'' means the Director of the National Science Foundation.

SEC. 556. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Director to carry out this subtitle $10,000,000 for each of fiscal years 2011 through 2013.

TITLE VI—INNOVATION

SEC. 601. OFFICE OF INNOVATION AND ENTREPRENEURSHIP.

The Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.), as amended by section 106 of this Act, is amended by adding at the end the following:

''SEC. 25. OFFICE OF INNOVATION AND ENTREPRENEURSHIP.

''(a) IN GENERAL.—The Secretary shall establish an Office of Innovation and Entrepreneurship to foster innovation and the commercialization of new technologies, products, processes, and services with the goal of promoting productivity and economic growth in the United States.

''(b) DUTIES.—The Office of Innovation and Entrepreneurship shall be responsible for—

''(1) developing policies to accelerate innovation and advance the commercialization of research and development, including federally funded research and development;

''(2) identifying existing barriers to innovation and commercialization, including access to capital and other resources, and ways to overcome those barriers, particularly in States participating in the Experimental Program to Stimulate Competitive Research;

''(3) providing access to relevant data, research, and technical assistance on innovation and commercialization;

''(4) strengthening collaboration on and coordination of policies relating to innovation and commercialization, including those focused on the needs of small businesses and rural communities, within the Department of Commerce, between the Department of Commerce and other Federal agencies, and between the Department of Commerce and appropriate State government agencies and institutions, as appropriate; and

''(5) any other duties as determined by the Secretary.

''(c) ADVISORY COMMITTEE.—The Secretary shall establish an Advisory Council on Innovation and Entrepreneurship to provide advice to the Secretary on carrying out subsection (b).''.

SEC. 602. FEDERAL LOAN GUARANTEES FOR INNOVATIVE TECHNOLOGIES IN MANUFACTURING.

The Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.), as amended by section 601, is further amended by adding at the end the following:

''SEC. 26. FEDERAL LOAN GUARANTEES FOR INNOVATIVE TECHNOLOGIES IN MANUFACTURING.

''(a) ESTABLISHMENT.—The Secretary shall establish a program to provide loan guarantees for obligations to small- or medium-sized manufacturers for the use or production of innovative technologies.

''(b) ELIGIBLE PROJECTS.—A loan guarantee may be made under the program only for a project that re-equips, expands, or establishes a manufacturing facility in the United States—

''(1) to use an innovative technology or an innovative process in manufacturing;

''(2) to manufacture an innovative technology product or an integral component of such a product; or

''(3) to commercialize an innovative product, process, or idea that was developed by research funded in whole or in part by a grant from the Federal government.

''(c) ELIGIBLE BORROWER.—A loan guarantee may be made under the program only

for a borrower who is a small- or medium-sized manufacturer, as determined by the Secretary under the criteria established pursuant to subsection (l).

''(d) LIMITATION ON AMOUNT.—A loan guarantee shall not exceed an amount equal to 80 percent of the obligation, as estimated at the time at which the loan guarantee is issued.

''(e) LIMITATIONS ON LOAN GUARANTEE.—No loan guarantee shall be made unless the Secretary determines that—

''(1) there is a reasonable prospect of repayment of the principal and interest on the obligation by the borrower;

''(2) the amount of the obligation (when combined with amounts available to the borrower from other sources) is sufficient to carry out the project;

''(3) the obligation is not subordinate to other financing;

''(4) the obligation bears interest at a rate that does not exceed a level that the Secretary determines appropriate, taking into account the prevailing rate of interest in the private sector for similar loans and risks; and

''(5) the term of an obligation requires full repayment over a period not to exceed the lesser of—

''(A) 30 years; or

''(B) 90 percent of the projected useful life, as determined by the Secretary, of the physical asset to be financed by the obligation.

''(f) DEFAULTS.—

''(1) PAYMENT BY SECRETARY.—

''(A) IN GENERAL.—If a borrower defaults (as defined in regulations promulgated by the Secretary and specified in the loan guarantee) on the obligation, the holder of the loan guarantee shall have the right to demand payment of the unpaid amount from the Secretary.

''(B) PAYMENT REQUIRED.—Within such period as may be specified in the loan guarantee or related agreements, the Secretary shall pay to the holder of the loan guarantee the unpaid interest on and unpaid principal of the obligation as to which the borrower has defaulted, unless the Secretary finds that there was no default by the borrower in the payment of interest or principal or that the default has been remedied.

''(C) FORBEARANCE.—Nothing in this subsection precludes any forbearance by the holder of the obligation for the benefit of the borrower which may be agreed upon by the parties to the obligation and approved by the Secretary.

''(2) SUBROGATION.—

''(A) IN GENERAL.—If the Secretary makes a payment under paragraph (1), the Secretary shall be subrogated to the rights, as specified in the loan guarantee, of the recipient of the payment or related agreements including, if appropriate, the authority (notwithstanding any other provision of law)—

''(i) to complete, maintain, operate, lease, or otherwise dispose of any property acquired pursuant to such loan guarantee or related agreement; or

''(ii) to permit the borrower, pursuant to an agreement with the Secretary, to continue to pursue the purposes of the project if the Secretary determines that such an agreement is in the public interest.

''(B) SUPERIORITY OF RIGHTS.—The rights of the Secretary, with respect to any property acquired pursuant to a loan guarantee or related agreements, shall be superior to the rights of any other person with respect to the property.

''(3) NOTIFICATION.—If the borrower defaults on an obligation, the Secretary shall notify the Attorney General of the default.

''(g) TERMS AND CONDITIONS.—A loan guarantee under this section shall include such detailed terms and conditions as the Secretary determines appropriate—

''(1) to protect the interests of the United States in the case of default; and

''(2) to have available all the patents and technology necessary for any person selected, including the Secretary, to complete and operate the project.

''(h) CONSULTATION.—In establishing the terms and conditions of a loan guarantee under this section, the Secretary shall consult with the Secretary of the Treasury.

''(i) FEES.—

''(1) IN GENERAL.—The Secretary shall charge and collect fees for loan guarantees in amounts the Secretary determines are sufficient to cover applicable administrative expenses.

''(2) AVAILABILITY.—Fees collected under this subsection shall—

''(A) be deposited by the Secretary into the Treasury of the United States; and

''(B) remain available until expended, subject to such other conditions as are contained in annual appropriations Acts.

''(3) LIMITATION.—In charging and collecting fees under paragraph (1), the Secretary shall take into consideration the amount of the obligation.

''(j) RECORDS.—

''(1) IN GENERAL.—With respect to a loan guarantee under this section, the borrower, the lender, and any other appropriate party shall keep such records and other pertinent documents as the Secretary shall prescribe by regulation, including such records as the Secretary may require to facilitate an effective audit.

''(2) ACCESS.—The Secretary and the Comptroller General of the United States, or their duly authorized representatives, shall have access to records and other pertinent documents for the purpose of conducting an audit.

''(k) FULL FAITH AND CREDIT.—The full faith and credit of the United States is pledged to the payment of all loan guarantees issued under this section with respect to principal and interest.

''(l) REGULATIONS.—The Secretary shall issue final regulations before making any loan guarantees under the program. The regulations shall include—

''(1) criteria that the Secretary shall use to determine eligibility for loan guarantees under this section, including—

''(A) whether a borrower is a small- or medium-sized manufacturer; and

''(B) whether a borrower demonstrates that a market exists for the innovative technology product, or the integral component of such a product, to be manufactured, as evidenced by written statements of interest from potential purchasers;

''(2) criteria that the Secretary shall use to determine the amount of any fees charged under subsection (i), including criteria related to the amount of the obligation;

''(3) policies and procedures for selecting and monitoring lenders and loan performance; and

''(4) any other policies, procedures, or information necessary to implement this section.

''(m) AUDIT.—

''(1) ANNUAL INDEPENDENT AUDITS.—The Secretary shall enter into an arrangement with an independent auditor for annual evaluations of the program under this section.

''(2) COMPTROLLER GENERAL REVIEW.—The Comptroller General of the United States shall conduct a biennial review of the Secretary's execution of the program under this section.

''(3) REPORT.—The results of the independent audit under paragraph (1) and the Comptroller General's review under paragraph (2) shall be provided directly to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

''(n) REPORT TO CONGRESS.—Concurrent with the submission to Congress of the President's annual budget request in each year after the date of enactment of the America COMPETES Reauthorization Act of 2010, the Secretary shall transmit to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing a summary of all activities carried out under this section.

''(o) COORDINATION AND NONDUPLICATION.—To the maximum extent practicable, the Secretary shall ensure that the activities carried out under this section are coordinated with, and do not duplicate the efforts of, other loan guarantee programs within the Federal Government.

''(p) MEP CENTERS.—The Secretary may use centers established under section 25 of the National Institute of Standards and Technology Act (15 U.S.C. 278k) to provide information about the program established under this section and to conduct outreach to potential borrowers, as appropriate.

''(q) MINIMIZING RISK.—The Secretary shall promulgate regulations and policies to carry out this section in accordance with Office of Management and Budget Circular No. A-129, entitled 'Policies for Federal Credit Programs and Non-Tax Receivables', as in effect on the date of enactment of the America COMPETES Reauthorization Act of 2010.

''(r) SENSE OF CONGRESS.—It is the sense of Congress that no loan guarantee shall be made under this section unless the borrower agrees to use a federally-approved electronic employment eligibility verification system to verify the employment eligibility of—

''(1) all persons hired during the contract term by the borrower to perform employment duties within the United States; and

''(2) all persons assigned by the borrower to perform work within the United States on the project.

''(s) DEFINITIONS.—In this section:

''(1) COST.—The term 'cost' has the meaning given such term under section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a).

''(2) INNOVATIVE PROCESS.—The term 'innovative process' means a process that is significantly improved as compared to the process in general use in the commercial marketplace in the United States at the time the loan guarantee is issued.

''(3) INNOVATIVE TECHNOLOGY.—The term 'innovative technology' means a technology that is significantly improved as compared to the technology in general use in the commercial marketplace in the United States at the time the loan guarantee is issued.

''(4) LOAN GUARANTEE.—The term 'loan guarantee' has the meaning given such term in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a). The term includes a loan guarantee commitment (as defined in section 502 of such Act (2 U.S.C. 661a)).

''(5) OBLIGATION.—The term 'obligation' means the loan or other debt obligation that is guaranteed under this section.

''(6) PROGRAM.—The term 'program' means the loan guarantee program established in subsection (a).

''(t) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $20,000,000 for each of fiscal years 2011 through 2013 to provide the cost of loan guarantees under this section.''.

SEC. 603. REGIONAL INNOVATION PROGRAM.

The Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.), as amended by section 602, is further amended by adding at the end thereof the following:

''SEC. 27. REGIONAL INNOVATION PROGRAM.

''(a) ESTABLISHMENT.—The Secretary shall establish a regional innovation program to

encourage and support the development of regional innovation strategies, including regional innovation clusters and science and research parks.

''(b) CLUSTER GRANTS.—

''(1) IN GENERAL.—As part of the program established under subsection (a), the Secretary may award grants on a competitive basis to eligible recipients for activities relating to the formation and development of regional innovation clusters.

''(2) PERMISSIBLE ACTIVITIES.—Grants awarded under this subsection may be used for activities determined appropriate by the Secretary, including the following:

''(A) Feasibility studies.

''(B) Planning activities.

''(C) Technical assistance.

''(D) Developing or strengthening communication and collaboration between and among participants of a regional innovation cluster.

''(E) Attracting additional participants to a regional innovation cluster.

''(F) Facilitating market development of products and services developed by a regional innovation cluster, including through demonstration, deployment, technology transfer, and commercialization activities.

''(G) Developing relationships between a regional innovation cluster and entities or clusters in other regions.

''(H) Interacting with the public and State and local governments to meet the goals of the cluster.

''(3) ELIGIBLE RECIPIENT DEFINED.—In this subsection, the term 'eligible recipient' means—

''(A) a State;

''(B) an Indian tribe;

''(C) a city or other political subdivision of a State;

''(D) an entity that—

''(i) is a nonprofit organization, an institution of higher education, a public-private partnership, a science or research park, a Federal laboratory, or an economic development organization or similar entity; and

''(ii) has an application that is supported by a State or a political subdivision of a State; or

''(E) a consortium of any of the entities described in subparagraphs (A) through (D).

''(4) APPLICATION.—

''(A) IN GENERAL.—An eligible recipient shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may require.

''(B) COMPONENTS.—The application shall include, at a minimum, a description of the regional innovation cluster supported by the proposed activity, including a description of—

''(i) whether the regional innovation cluster is supported by the private sector, State and local governments, and other relevant stakeholders;

''(ii) how the existing participants in the regional innovation cluster will encourage and solicit participation by all types of entities that might benefit from participation, including newly formed entities and those rival existing participants;

''(iii) the extent to which the regional innovation cluster is likely to stimulate innovation and have a positive impact on regional economic growth and development;

''(iv) whether the participants in the regional innovation cluster have access to, or contribute to, a well-trained workforce;

''(v) whether the participants in the regional innovation cluster are capable of attracting additional funds from non-Federal sources; and

''(vi) the likelihood that the participants in the regional innovation cluster will be able to sustain activities once grant funds under this subsection have been expended.

''(C) SPECIAL CONSIDERATION.—The Secretary shall give special consideration to applications from regions that contain communities negatively impacted by trade.

''(5) SPECIAL CONSIDERATION.—The Secretary shall give special consideration to an eligible recipient who agrees to collaborate with local workforce investment area boards.

''(6) COST SHARE.—The Secretary may not provide more than 50 percent of the total cost of any activity funded under this subsection.

''(7) USE AND APPLICATION OF RESEARCH AND INFORMATION PROGRAM.—To the maximum extent practicable, the Secretary shall ensure that activities funded under this subsection use and apply any relevant research, best practices, and metrics developed under the program established in subsection (c).

''(c) SCIENCE AND RESEARCH PARK DEVELOPMENT GRANTS.—

''(1) IN GENERAL.—As part of the program established under subsection (a), the Secretary may award grants for the development of feasibility studies and plans for the construction of new science parks or the renovation or expansion of existing science parks.

''(2) LIMITATION ON AMOUNT OF GRANTS.—The amount of a grant awarded under this subsection may not exceed $750,000.

''(3) AWARD.—

''(A) COMPETITION REQUIRED.—The Secretary shall award grants under this subsection pursuant to a full and open competition.

''(B) GEOGRAPHIC DISPERSION.— In conducting a competitive process, the Secretary shall consider the need to avoid undue geographic concentration among any one category of States based on their predominant rural or urban character as indicated by population density.

''(C) SELECTION CRITERIA.—The Secretary shall publish the criteria to be utilized in any competition for the selection of recipients of grants under this subsection, which shall include requirements relating to the—

''(i) effect the science park will have on regional economic growth and development;

''(ii) number of jobs to be created at the science park and the surrounding regional community each year during its first 3 years;

''(iii) funding to be required to construct, renovate or expand the science park during its first 3 years;

''(iv) amount and type of financing and access to capital available to the applicant;

''(v) types of businesses and research entities expected in the science park and surrounding regional community;

''(vi) letters of intent by businesses and research entities to locate in the science park;

''(vii) capability to attract a well trained workforce to the science park;

''(viii) the management of the science park during its first 5 years;

''(ix) expected financial risks in the construction and operation of the science park and the risk mitigation strategy;

''(x) physical infrastructure available to the science park, including roads, utilities, and telecommunications;

''(xi) utilization of energy-efficient building technology including nationally recognized green building design practices, renewable energy, cogeneration, and other methods that increase energy efficiency and conservation;

''(xii) consideration to the transformation of military bases affected by the base realignment and closure process or the redevelopment of existing buildings, structures, or brownfield sites that are abandoned, idled, or underused into single or multiple building facilities for science and technology companies and institutions;

''(xiii) ability to collaborate with other science parks throughout the world;

''(xiv) consideration of sustainable development practices and the quality of life at the science park; and

''(xv) other such criteria as the Secretary shall prescribe.

''(4) ALLOCATION CONSTRAINTS.—The Secretary may not allocate less than one-third of the total grant funding allocated under this section for any fiscal year to grants under subsection (b) or this subsection without written notification to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committees on Science and Technology and on Energy and Commerce.

''(d) LOAN GUARANTEES FOR SCIENCE PARK INFRASTRUCTURE.—

''(1) IN GENERAL.—Subject to paragraph (2), the Secretary may guarantee up to 80 percent of the loan amount for projects for the construction or expansion, including renovation and modernization, of science park infrastructure.

''(2) LIMITATIONS ON GUARANTEE AMOUNTS.—The maximum amount of loan principal guaranteed under this subsection may not exceed—

''(A) $50,000,000 with respect to any single project; and

''(B) $300,000,000 with respect to all projects.

''(3) SELECTION OF GUARANTEE RECIPIENTS.—The Secretary shall select recipients of loan guarantees under this subsection based upon the ability of the recipient to collateralize the loan amount through bonds, equity, property, and such other things of values as the Secretary shall deem necessary. Recipients of grants under subsection (c) are not eligible for a loan guarantee during the period of the grant. To the extent that the Secretary determines it to be feasible, the Secretary may select recipients of guarantee assistance in accord with a competitive process that takes into account the factors set out in subsection (c)(3)(C) of this section.

''(4) TERMS AND CONDITIONS FOR LOAN GUARANTEES.—The loans guaranteed under this subsection shall be subject to such terms and conditions as the Secretary may prescribe, except that—

''(A) the final maturity of such loans made or guaranteed may not exceed the lesser of—

''(i) 30 years; or

''(ii) 90 percent of the useful life of any physical asset to be financed by the loan;

''(B) a loan guaranteed under this subsection may not be subordinated to another debt contracted by the borrower or to any other claims against the borrowers in the case of default;

''(C) a loan may not be guaranteed under this subsection unless the Secretary determines that the lender is responsible and that provision is made for servicing the loan on reasonable terms and in a manner that adequately protects the financial interest of the United States;

''(D) a loan may not be guaranteed under this subsection if—

''(i) the income from the loan is excluded from gross income for purposes of chapter 1 of the Internal Revenue Code of 1986; or

''(ii) the guarantee provides significant collateral or security, as determined by the Secretary in coordination with the Secretary of the Treasury, for other obligations the income from which is so excluded;

''(E) any guarantee provided under this subsection shall be conclusive evidence that—

''(i) the guarantee has been properly obtained;

''(ii) the underlying loan qualified for the guarantee; and

''(iii) absent fraud or material misrepresentation by the holder, the guarantee is presumed to be valid, legal, and enforceable;

''(F) the Secretary may not extend credit assistance unless the Secretary has determined that there is a reasonable assurance of repayment; and

''(G) new loan guarantees may not be committed except to the extent that appropriations of budget authority to cover their costs are made in advance, as required under section 504 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661c).

''(5) PAYMENT OF LOSSES.—

''(A) IN GENERAL.—If, as a result of a default by a borrower under a loan guaranteed under this subsection, after the holder has made such further collection efforts and instituted such enforcement proceedings as the Secretary may require, the Secretary determines that the holder has suffered a loss, the Secretary shall pay to the holder the percentage of the loss specified in the guarantee contract. Upon making any such payment, the Secretary shall be subrogated to all the rights of the recipient of the payment. The Secretary shall be entitled to recover from the borrower the amount of any payments made pursuant to any guarantee entered into under this section.

''(B) ENFORCEMENT OF RIGHTS.—The Attorney General shall take such action as may be appropriate to enforce any right accruing to the United States as a result of the issuance of any guarantee under this section.

''(C) FORBEARANCE.—Nothing in this section may be construed to preclude any forbearance for the benefit of the borrower which may be agreed upon by the parties to the guaranteed loan and approved by the Secretary, if budget authority for any resulting subsidy costs (as defined in section 502(5) of the Federal Credit Reform Act of 1990) is available.

''(6) EVALUATION OF CREDIT RISK.—

''(A) The Secretary shall periodically assess the credit risk of new and existing direct loans or guaranteed loans.

''(B) Not later than 2 years after the date of the enactment of the America COMPETES Reauthorization Act of 2010, the Comptroller General of the United States shall—

''(i) conduct a review of the subsidy estimates for the loan guarantees under this section; and

''(ii) submit to Congress a report on the review conducted under this paragraph.

''(7) TERMINATION.—A loan may not be guaranteed under this section after September 30, 2013.

''(8) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $7,000,000 for each of fiscal years 2011 through 2013 for the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) of guaranteeing $300,000,000 in loans under this section, such sums to remain available until expended.

''(e) REGIONAL INNOVATION RESEARCH AND INFORMATION PROGRAM.—

''(1) IN GENERAL.—As part of the program established under subsection (a), the Secretary shall establish a regional innovation research and information program—

''(A) to gather, analyze, and disseminate information on best practices for regional innovation strategies (including regional innovation clusters), including information relating to how innovation, productivity, and economic development can be maximized through such strategies;

''(B) to provide technical assistance, including through the development of technical assistance guides, for the development and implementation of regional innovation strategies (including regional innovation clusters);

''(C) to support the development of relevant metrics and measurement standards to evaluate regional innovation strategies (including regional innovation clusters), including the extent to which such strategies stimulate innovation, productivity, and economic development; and

''(D) to collect and make available data on regional innovation cluster activity in the United States, including data on—

''(i) the size, specialization, and competitiveness of regional innovation clusters;

''(ii) the regional domestic product contribution, total jobs and earnings by key occupations, establishment size, nature of specialization, patents, Federal research and development spending, and other relevant information for regional innovation clusters; and

''(iii) supply chain product and service flows within and between regional innovation clusters.

''(2) RESEARCH GRANTS.—The Secretary may award research grants on a competitive basis to support and further the goals of the program established under this subsection.

''(3) DISSEMINATION OF INFORMATION.—Data and analysis compiled by the Secretary under the program established in this subsection shall be made available to other Federal agencies, State and local governments, and nonprofit and for-profit entities.

''(4) REGIONAL INNOVATION GRANT PROGRAM.—The Secretary shall incorporate data and analysis relating to any grant under subsection (b) or (c) and any loan guarantee under subsection (d) into the program established under this subsection.

''(f) INTERAGENCY COORDINATION.—

''(1) IN GENERAL.—To the maximum extent practicable, the Secretary shall ensure that the activities carried out under this section are coordinated with, and do not duplicate the efforts of, other programs at the Department of Commerce or other Federal agencies.

''(2) COLLABORATION.—

''(A) IN GENERAL.—The Secretary shall explore and pursue collaboration with other Federal agencies, including through multiagency funding opportunities, on regional innovation strategies.

''(B) SMALL BUSINESSES.—The Secretary shall ensure that such collaboration with Federal agencies prioritizes the needs and challenges of small businesses.

''(g) EVALUATION.—

''(1) IN GENERAL.—Not later than 3 years after the date of enactment of the America COMPETES Reauthorization Act of 2010, the Secretary shall enter into a contract with an independent entity, such as the National Academy of Sciences, to conduct an evaluation of the program established under subsection (a).

''(2) REQUIREMENTS.—The evaluation shall include—

''(A) whether the program is achieving its goals;

''(B) any recommendations for how the program may be improved; and

''(C) a recommendation as to whether the program should be continued or terminated.

''(h) DEFINITIONS.—In this section:

''(1) REGIONAL INNOVATION CLUSTER.—The term 'regional innovation cluster' means a geographically bounded network of similar, synergistic, or complementary entities that—

''(A) are engaged in or with a particular industry sector;

''(B) have active channels for business transactions and communication;

''(C) share specialized infrastructure, labor markets, and services; and

''(D) leverage the region's unique competitive strengths to stimulate innovation and create jobs.

''(2) SCIENCE PARK.—The term 'Science park' means a property-based venture, which has—

''(A) master-planned property and buildings designed primarily for private-public research and development activities, high technology and science-based companies, and research and development support services;

''(B) a contractual or operational relationship with one or more science- or research-related institution of higher education or governmental or non-profit research laboratories;

''(C) a primary mission to promote research and development through industry partnerships, assisting in the growth of new ventures and promoting innovation-driven economic development;

''(D) a role in facilitating the transfer of technology and business skills between researchers and industry teams; and

''(E) a role in promoting technology-led economic development for the community or region in which the science park is located. A science park may be owned by a governmental or not-for-profit entity, but it may enter into partnerships or joint ventures with for-profit entities for development or management of specific components of the park.

''(3) STATE.—The term 'State' means one of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or any other territory or possession of the United States.

''(i) AUTHORIZATION OF APPROPRIATIONS.—Except as provided in subsection (d)(8), there are authorized to be appropriated $100,000,000 for each of fiscal years 2011 through 2013 to carry out this section (other than for loan guarantees under subsection (d)).''.

SEC. 604. STUDY ON ECONOMIC COMPETITIVENESS AND INNOVATIVE CAPACITY OF UNITED STATES AND DEVELOPMENT OF NATIONAL ECONOMIC COMPETITIVENESS STRATEGY.

(a) STUDY.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Commerce shall complete a comprehensive study of the economic competitiveness and innovative capacity of the United States.

(2) MATTERS COVERED.—The study required by paragraph (1) shall include the following:

(A) An analysis of the United States economy and innovation infrastructure.

(B) An assessment of the following:

(i) The current competitive and innovation performance of the United States economy relative to other countries that compete economically with the United States.

(ii) Economic competitiveness and domestic innovation in the current business climate, including tax and Federal regulatory policy.

(iii) The business climate of the United States and those of other countries that compete economically with the United States.

(iv) Regional issues that influence the economic competitiveness and innovation capacity of the United States, including—

(I) the roles of State and local governments and institutions of higher education; and

(II) regional factors that contribute positively to innovation.

(v) The effectiveness of the Federal Government in supporting and promoting economic competitiveness and innovation, including any duplicative efforts of, or gaps in

coverage between, Federal agencies and departments.

(vi) Barriers to competitiveness in newly emerging business or technology sectors, factors influencing underperforming economic sectors, unique issues facing small and medium enterprises, and barriers to the development and evolution of start-ups, firms, and industries.

(vii) The effects of domestic and international trade policy on the competitiveness of the United States and the United States economy.

(viii) United States export promotion and export finance programs relative to export promotion and export finance programs of other countries that compete economically with the United States, including Canada, France, Germany, Italy, Japan, Korea, and the United Kingdom, with noting of export promotion and export finance programs carried out by such countries that are not analogous to any programs carried out by the United States.

(ix) The effectiveness of current policies and programs affecting exports, including an assessment of Federal trade restrictions and State and Federal export promotion activities.

(x) The effectiveness of the Federal Government and Federally funded research and development centers in supporting and promoting technology commercialization and technology transfer.

(xi) Domestic and international intellectual property policies and practices.

(xii) Manufacturing capacity, logistics, and supply chain dynamics of major export sectors, including access to a skilled workforce, physical infrastructure, and broadband network infrastructure.

(xiii) Federal and State policies relating to science, technology, and education and other relevant Federal and State policies designed to promote commercial innovation, including immigration policies.

(C) Development of recommendations on the following:

(i) How the United States should invest in human capital.

(ii) How the United States should facilitate entrepreneurship and innovation.

(iii) How best to develop opportunities for locally and regionally driven innovation by providing Federal support.

(iv) How best to strengthen the economic infrastructure and industrial base of the United States.

(v) How to improve the international competitiveness of the United States.

(3) CONSULTATION.—

(A) IN GENERAL.—The study required by paragraph (1) shall be conducted in consultation with the National Economic Council of the Office of Policy Development, such Federal agencies as the Secretary considers appropriate, and the Innovation Advisory Board established under subparagraph (B). The Secretary shall also establish a process for obtaining comments from the public.

(B) INNOVATION ADVISORY BOARD.—

(i) IN GENERAL.—The Secretary shall establish an Innovation Advisory Board for purposes of obtaining advice with respect to the conduct of the study required by paragraph (1).

(ii) COMPOSITION.—The Advisory Board established under clause (i) shall be comprised of 15 members, appointed by the Secretary—

(I) who shall represent all major industry sectors;

(II) a majority of whom should be from private industry, including large and small firms, representing advanced technology sectors and more traditional sectors that use technology; and

(III) who may include economic or innovation policy experts, State and local government officials active in technology-based economic development, and representatives from higher education.

(iii) EXEMPTION FROM FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the advisory board established under clause (i).

(b) STRATEGY.—

(1) IN GENERAL.—Not later than 1 year after the completion of the study required by subsection (a), the Secretary shall develop, based on the study required by subsection (a)(1), a national 10-year strategy to strengthen the innovative and competitive capacity of the Federal Government, State and local governments, United States institutions of higher education, and the private sector of the United States.

(2) ELEMENTS.—The strategy required by paragraph (1) shall include the following:

(A) Actions to be taken by individual Federal agencies and departments to improve competitiveness.

(B) Proposed legislative actions for consideration by Congress.

(C) Annual goals and milestones for the 10-year period of the strategy.

(D) A plan for monitoring the progress of the Federal Government with respect to improving conditions for innovation and the competitiveness of the United States.

(c) REPORT.—

(1) IN GENERAL.—Upon the completion of the strategy required by subsection (b), the Secretary of Commerce shall submit to Congress and the President a report on the study conducted under subsection (a) and the strategy developed under subsection (b).

(2) ELEMENTS.—The report required by paragraph (1) shall include the following:

(A) The findings of the Secretary with respect to the study conducted under subsection (a).

(B) The strategy required by subsection (b).

SEC. 605. PROMOTING USE OF HIGH-END COMPUTING SIMULATION AND MODELING BY SMALL- AND MEDIUM-SIZED MANUFACTURERS.

(a) FINDINGS.—Congress finds that—

(1) the utilization of high-end computing simulation and modeling by large-scale government contractors and Federal research entities has resulted in substantial improvements in the development of advanced manufacturing technologies; and

(2) such simulation and modeling would also benefit small- and medium-sized manufacturers in the United States if such manufacturers were to deploy such simulation and modeling throughout their manufacturing chains.

(b) POLICY.—It is the policy of the United States to take all effective measures practicable to ensure that Federal programs and policies encourage and contribute to the use of high-end computing simulation and modeling in the United States manufacturing sector.

(c) STUDY.—

(1) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Commerce, in consultation with the Secretary of Energy and the Director of the Office of Science and Technology Policy, shall carry out, through an interagency consulting process, a study of the barriers to the use of high-end computing simulation and modeling by small- and medium-sized manufacturers in the United States.

(2) FACTORS.—In carrying out the study required by paragraph (1), the Secretary of Commerce, in consultation with the Secretary of Energy and the Director of the Office of Science and Technology Policy, shall consider the following:

(A) The access of small- and medium-sized manufacturers in the United States to high-performance computing facilities and resources.

(B) The availability of software and other applications tailored to meet the needs of such manufacturers.

(C) Whether such manufacturers employ or have access to individuals with appropriate expertise for the use of such facilities and resources.

(D) Whether such manufacturers have access to training to develop such expertise.

(E) The availability of tools and other methods to such manufacturers to understand and manage the costs and risks associated with transitioning to the use of such facilities and resources.

(3) REPORT.—Not later than 270 days after the commencement of the study required by paragraph (1), the Secretary of Commerce shall, in consultation with the Secretary of Energy and the Director of the Office of Science and Technology Policy, submit to Congress a report on such study. Such report shall include such recommendations for such legislative or administrative action as the Secretary of Commerce considers appropriate in light of the study to increase the utilization of high-end computing simulation and modeling by small- and medium-sized manufacturers in the United States.

(d) AUTHORIZATION OF DEMONSTRATION AND PILOT PROGRAMS.—As part of the study required by subsection (c)(1), the Secretary of Commerce, the Secretary of Energy, and the Director of the Office of Science and Technology Policy may carry out such demonstration or pilot programs as either Secretary or the Director considers appropriate to gather experiential data to evaluate the feasibility and advisability of a specific program or policy initiative to reduce barriers to the utilization of high-end computer modeling and simulation by small- and medium-sized manufacturers in the United States.

TITLE VII—NIST GREEN JOBS

SEC. 701. SHORT TITLE.

This title may be cited as the ''NIST Grants for Energy Efficiency, New Job Opportunities, and Business Solutions Act of 2010'' or the ''NIST GREEN JOBS Act of 2010''.

SEC. 702. FINDINGS.

Congress finds the following:

(1) Over its 20-year existence, the Hollings Manufacturing Extension Partnership has proven its value to manufacturers as demonstrated by the resulting impact on jobs and the economies of all 50 States and the Nation as a whole.

(2) The Hollings Manufacturing Extension Partnership has helped thousands of companies reinvest in themselves through process improvement and business growth initiatives leading to more sales, new markets, and the adoption of technology to deliver new products and services.

(3) Manufacturing is an increasingly important part of the construction sector as the industry moves to the use of more components and factory built sub-assemblies.

(4) Construction practices must become more efficient and precise if the United States is to construct and renovate its building stock to reduce related carbon emissions to levels that are consistent with combating global warming.

(5) Many companies involved in construction are small, without access to innovative manufacturing techniques, and could benefit from the type of training and business analysis activities that the Hollings Manufacturing Extension Partnership routinely provides to the Nation's manufacturers and their supply chains.

(6) Broadening the competitiveness grant program under section 25(f) of the National Institute of Standards and Technology Act

(15 U.S.C. 278k(f)) could help develop and diffuse knowledge necessary to capture a large portion of the estimated $100 billion or more in energy savings if buildings in the United States met the level and quality of energy efficiency now found in buildings in certain other countries.

(7) It is therefore in the national interest to expand the capabilities of the Hollings Manufacturing Extension Partnership to be supportive of the construction and green energy industries.

SEC. 703. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY COMPETITIVE GRANT PROGRAM.

(a) IN GENERAL.—Section 25(f)(3) of the National Institute of Standards and Technology Act (15 U.S.C. 278k(f)(3)) is amended—

(1) by striking ''to develop'' in the first sentence and inserting ''to add capabilities to the MEP program, including the development of''; and

(2) by striking the last sentence and inserting ''Centers may be reimbursed for costs incurred under the program. These themes—

''(A) shall be related to projects designed to increase the viability both of traditional manufacturing sectors and other sectors, such as construction, that increasingly rely on manufacturing through the use of manufactured components and manufacturing techniques, including supply chain integration and quality management;

''(B) shall be related to projects related to the transfer of technology based on the technological needs of manufacturers and available technologies from institutions of higher education, laboratories, and other technology producing entities; and

''(C) may extend beyond these traditional areas to include projects related to construction industry modernization.''.

(b) SELECTION.—Section 25(f)(5) of the National Institute of Standards and Technology Act (15 U.S.C. 278k(f)(5)) is amended to read as follows:

''(5) SELECTION.—

''(A) IN GENERAL.—Awards under this section shall be peer reviewed and competitively awarded. The Director shall endeavor to select at least one proposal in each of the 9 statistical divisions of the United States (as designated by the Bureau of the Census). The Director shall select proposals to receive awards that will—

''(i) create jobs or train newly hired employees;

''(ii) promote technology transfer and commercialization of environmentally focused materials, products, and processes;

''(iii) increase energy efficiency; and

''(iv) improve the competitiveness of industries in the region in which the Center or Centers are located.

''(B) ADDITIONAL SELECTION CRITERIA.—The Director may select proposals to receive awards that will—

''(i) encourage greater cooperation and foster partnerships in the region with similar Federal, State, and locally funded programs to encourage energy efficiency and building technology; and

''(ii) collect data and analyze the increasing connection between manufactured products and manufacturing techniques, the future of construction practices, and the emerging application of products from the green energy industries.''.

(c) OTHER MODIFICATIONS.—Section 25(f) of the National Institute of Standards and Technology Act (15 U.S.C. 278k(f)) is amended—

(1) by adding at the end the following:

''(7) DURATION.—Awards under this section shall last no longer than 3 years.

''(8) ELIGIBLE PARTICIPANTS.—In addition to manufacturing firms eligible to participate in the Centers program, awards under this subsection may be used by the Centers to assist small- or medium-sized construction firms. Centers may be reimbursed under the program for working with such eligible participants.

''(9) AUTHORIZATION OF APPROPRIATIONS.—In addition to any amounts otherwise authorized or appropriated to carry out this section, there are authorized to be appropriated to the Secretary of Commerce $7,000,000 for each of the fiscal years 2011 through 2013 to carry out this subsection.''.

TITLE VIII—GENERAL PROVISIONS

SEC. 801. GOVERNMENT ACCOUNTABILITY OFFICE REVIEW.

Not later than May 31, 2013, the Comptroller General of the United States shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science and Technology that evaluates the status of the programs authorized in this Act, including the extent to which such programs have been funded, implemented, and are contributing to achieving the goals of the Act.

SEC. 802. SALARY RESTRICTIONS.

(a) OBSCENE MATTER ON FEDERAL PROPERTY.—None of the funds authorized under this Act may be used to pay the salary of any individual who is convicted of violating section 1460 of title 18, United States Code.

(b) USE OF FEDERAL COMPUTERS FOR CHILD PORNOGRAPHY OR EXPLOITATION OF MINORS.—None of the funds authorized under this Act may be used to pay the salary of any individual who is convicted of a violation of section 2252 of title 18, United States Code.

SEC. 803. ADDITIONAL RESEARCH AUTHORITIES OF THE FCC.

Title I of the Communications Act of 1934 (47 U.S.C. 151 et seq.) is amended by adding at the end the following:

''SEC. 12. ADDITIONAL RESEARCH AUTHORITIES OF THE FCC.

''In order to carry out the purposes of this Act, the Commission may—

''(1) undertake research and development work in connection with any matter in relation to which the Commission has jurisdiction; and

''(2) promote the carrying out of such research and development by others, or otherwise to arrange for such research and development to be carried out by others.''.

TITLE IX—DEPARTMENT OF ENERGY

SEC. 901. SCIENCE, ENGINEERING, AND MATHEMATICS EDUCATION PROGRAMS.

(a) IN GENERAL.—Sections 3171, 3175, and 3191 of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381h, 7381j, 7381p) are repealed.

(b) AUTHORIZATION OF APPROPRIATIONS FOR SUMMER INSTITUTES.—Section 3185(f) of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381n(f)) is amended—

(1) in paragraph (2), by striking ''and'' at the end;

(2) in paragraph (3), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(4) $25,000,000 for each of fiscal years 2011 through 2013.''.

(c) CONFORMING AMENDMENTS.—

(1) Subpart B of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381g et seq.) is amended by striking chapters 1, 2, and 5 (42 U.S.C. 7381h, 7381j, 7381p).

(2) Section 3195 of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381r) is amended by striking ''chapters 1, 3, and 4'' each place it appears and inserting ''chapters 3 and 4''.

SEC. 902. ENERGY RESEARCH PROGRAMS.

(a) NUCLEAR SCIENCE TALENT PROGRAM.—Section 5004(f) of the America COMPETES Act (42 U.S.C. 16532(f)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by striking ''and'' at the end;

(B) in subparagraph (C), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

''(D) $9,800,000 for fiscal year 2011;

''(E) $10,100,000 for fiscal year 2012; and

''(F) $10,400,000 for fiscal year 2013.''; and

(2) in paragraph (2)—

(A) in subparagraph (B), by striking ''and'' at the end;

(B) in subparagraph (C), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

''(D) $8,240,000 for fiscal year 2011;

''(E) $8,500,000 for fiscal year 2012; and

''(F) $8,750,000 for fiscal year 2013.''.

(b) HYDROCARBON SYSTEMS SCIENCE TALENT PROGRAM.—Section 5005 of the America COMPETES Act (42 U.S.C. 16533) is amended—

(1) in subsection (b)(2)—

(A) in subparagraph (H), by striking ''and'' at the end;

(B) in subparagraph (I), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(J) hydrocarbon spill response and remediation.''; and

(2) in subsection (f)(1)—

(A) in subparagraph (B), by striking ''and'';

(B) in subparagraph (C), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

''(D) $9,800,000 for fiscal year 2011;

''(E) $10,000,000 for fiscal year 2012; and

''(F) $10,400,000 for fiscal year 2013.''.

(c) EARLY CAREER AWARDS.—Section 5006(h) of the America COMPETES Act (42 U.S.C. 16534(h)) is amended by striking ''2010'' and inserting ''2013''.

(d) PROTECTING AMERICA'S COMPETITIVE EDGE (PACE) GRADUATE FELLOWSHIP PROGRAM.—Section 5009(f) of the America COMPETES Act (42 U.S.C. 16536(f)) is amended—

(1) in paragraph (2), by striking ''and'' at the end;

(2) in paragraph (3), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(4) $20,600,000 for fiscal year 2011;

''(5) $21,200,000 for fiscal year 2012; and

''(6) $21,900,000 for fiscal year 2013.''.

(e) DISTINGUISHED SCIENTIST PROGRAM.—Section 5011(j) of the America COMPETES Act (42 U.S.C. 16537(j)) is amended—

(1) in paragraph (2), by striking ''and'' at the end;

(2) in paragraph (3), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(4) $31,000,000 for fiscal year 2011;

''(5) $32,000,000 for fiscal year 2012; and

''(6) $33,000,000 for fiscal year 2013.''.

SEC. 903. BASIC RESEARCH.

Section 971(b) of the Energy Policy Act of 2005 (42 U.S.C. 16311(b)) is amended—

(1) in paragraph (3), by striking ''and'' at the end;

(2) in paragraph (4), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(5) $5,247,000,000 for fiscal year 2011;

''(6) $5,614,000,000 for fiscal year 2012; and

''(7) $6,007,000,000 for fiscal year 2013.''.

SEC. 904. ADVANCED RESEARCH PROJECTS AGENCY-ENERGY.

Section 5012 of the America COMPETES Act (42 U.S.C. 16538) is amended—

(1) in subsection (a)(3), by striking ''subsection (m)(1)'' and inserting ''subsection (n)(1)'';

(2) in subsection (c)(2)(A), by inserting ''and applied'' after ''advances in fundamental'';

(3) in subsection (e)—

(A) in paragraph (3)—

(i) by striking subparagraph (C) and inserting the following:

''(C) research and development of advanced manufacturing process and technologies for the domestic manufacturing of novel energy technologies; and''; and

(ii) in subparagraph (D), by striking ''and'' after the semicolon at the end;

(B) in paragraph (4), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(5) pursuant to subsection (c)(2)(C)—

''(A) ensuring that applications for funding disclose the extent of current and prior efforts, including monetary investments as appropriate, in pursuit of the technology area for which funding is being requested;

''(B) adopting measures to ensure that, in making awards, program managers adhere to the purposes of subsection (c)(2)(C); and

''(C) providing as part of the annual report required by subsection (h)(1) a summary of the instances of and reasons for ARPA-E funding projects in technology areas already being undertaken by industry.'';

(4) by redesignating subsections (f) through (m) as subsections (g) through (n), respectively;

(5) by inserting after subsection (e) the following:

''(f) AWARDS.—In carrying out this section, the Director may provide awards in the form of grants, contracts, cooperative agreements, cash prizes, and other transactions.'';

(6) in subsection (g) (as redesignated by paragraph (4))—

(A) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively;

(B) by inserting before paragraph (2) (as redesignated by subparagraph (A)) the following:

''(1) IN GENERAL.—The Director shall establish and maintain within ARPA-E a staff with sufficient qualifications and expertise to enable ARPA-E to carry out the responsibilities of ARPA-E under this section in conjunction with other operations of the Department.'';

(C) in paragraph (2) (as redesignated by subparagraph (A))—

(i) in the paragraph heading, by striking ''PROGRAM MANAGERS'' and inserting ''PROGRAM DIRECTORS'';

(ii) in subparagraph (A), by striking ''program managers for each of'' and inserting ''program directors for'';

(iii) in subparagraph (B)—

(I) in the matter preceding clause (i), by striking ''program manager'' and inserting ''program director'';

(II) in clause (iv), by striking '', with advice under subsection (j) as appropriate,'';

(III) by redesignating clauses (v) and (vi) as clauses (vi) and (viii), respectively;

(IV) by inserting after clause (iv) the following:

''(v) identifying innovative cost-sharing arrangements for ARPA-E projects, including through use of the authority provided under section 988(b)(3) of the Energy Policy Act of 2005 (42 U.S.C. 16352(b)(3));'';

(V) in clause (vi) (as redesignated by subclause (III)), by striking ''; and'' and inserting a semicolon; and

(VI) by inserting after clause (vi) (as redesignated by subclause (III)) the following:

''(vii) identifying mechanisms for commercial application of successful energy technology development projects, including through establishment of partnerships between awardees and commercial entities; and'';

(iv) in subparagraph (C), by inserting ''not more than'' after ''shall be''; and

(D) in paragraph (3) (as redesignated by subparagraph (A))—

(i) in subparagraph (A)—

(I) in clause (i), by striking ''and'' after the semicolon at the end; and

(II) by striking clause (ii) and inserting the following:

''(ii) fix the basic pay of such personnel at a rate to be determined by the Director at rates not in excess of Level II of the Executive Schedule (EX-II) without regard to the civil service laws; and

''(iii) pay any employee appointed under this subpart payments in addition to basic pay, except that the total amount of additional payments paid to an employee under this subpart for any 12-month period shall not exceed the least of the following amounts:

''(I) $25,000.

''(II) The amount equal to 25 percent of the annual rate of basic pay of the employee.

''(III) The amount of the limitation that is applicable for a calendar year under section 5307(a)(1) of title 5, United States Code.'';

(ii) in subparagraph (B), by striking ''not less than 70, and not more than 120,'' and inserting ''not more than 120'';

(7) in subsection (h)(2) (as redesignated by paragraph (4))—

(A) by striking ''2008'' and inserting ''2010''; and

(B) by striking ''2011'' and inserting''2013'';

(8) by striking subsection (j) (as redesignated by paragraph (4)) and inserting the following:

''(j) FEDERAL DEMONSTRATION OF TECHNOLOGIES.—The Director shall seek opportunities to partner with purchasing and procurement programs of Federal agencies to demonstrate energy technologies resulting from activities funded through ARPA-E.'';

(9) in subsection (l) (as redesignated by paragraph (4))—

(A) in paragraph (1), by striking ''4 years'' and inserting''6 years''; and

(B) in paragraph (2)(B), by inserting '', and the manner in which those lessons may apply to the operation of other programs of the Department'' after ''ARPA-E''; and

(10) in subsection (n) (as redesignated by paragraph (4))—

(A) in paragraph (2)—

(i) in subparagraph (A), by striking ''and'' after the semicolon at the end;

(ii) in subparagraph (B), by striking the period at the end and inserting a semicolon; and

(iii) by adding at the end the following:

''(C) $300,000,000 for fiscal year 2011;

''(D) $306,000,000 for fiscal year 2012; and

''(E) $312,000,000 for fiscal year 2013.'';

(B) by striking paragraph (4);

(C) by redesignating paragraph (5) as paragraph (4); and

(D) in paragraph (4)(B) (as redesignated by subparagraph (C))—

(i) by striking'' 2.5 percent'' and inserting ''5 percent''; and

(ii) by inserting '', consistent with the goal described in subsection (c)(2)(D) and within the responsibilities of program directors described in subsection (g)(2)(B)(vii)'' after ''outreach activities''.

TITLE X—EDUCATION

SEC. 1001. REFERENCES.

Except as otherwise expressly provided, wherever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the America COMPETES Act (Public Law 110–69).

SEC. 1002. REPEALS AND CONFORMING AMENDMENTS.

(a) REPEALS.—The following provisions of the Act are repealed:

(1) Section 6001 (20 U.S.C. 9801).

(2) Part III of subtitle A of title VI (20 U.S.C. 9841).

(3) Subtitle B of title VI (20 U.S.C. 9851 et seq.)

(4) Subtitle C of title VI (20 U.S.C. 9861 et seq.).

(5) Subtitle E of title VI (20 U.S.C. 9881 et seq.).

(b) CONFORMING AMENDMENTS.—The Act is amended—

(1) by redesignating section 6002 (20 U.S.C. 9802) as section 6001;

(2) by redesignating subtitle D of title VI (20 U.S.C. 9871) as subtitle B of title VI; and

(3) by redesignating section 6401 (20 U.S.C. 9871) as section 6201.

SEC.1003. AUTHORIZATIONS OF APPROPRIATIONS AND MATCHING REQUIREMENT.

(a) TEACHERS FOR A COMPETITIVE TOMORROW.—Section 6116 (20 U.S.C. 9816) is amended to read as follows:

''SEC. 6116. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this part $4,000,000 for each of fiscal years 2011 through 2013, of which—

''(1) $2,000,000 shall be available to carry out section 6113 for each of fiscal years 2011 through 2013; and

''(2) $2,000,000 shall be available to carry out section 6114 for each of fiscal years 2011 through 2013.''.

(b) ADVANCED PLACEMENT AND INTERNATIONAL BACCALAUREATE PROGRAMS AND MATCHING REQUIREMENT.—Section 6123 (20 U.S.C. 9833) is amended—

(1) in subsection (h)(1)—

(A) by striking ''100'' and inserting ''50''; and

(B) by striking ''200'' and inserting ''100''; and

(2) by striking subsection (l) and inserting the following:

''(l) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $75,000,000 for each of fiscal years 2011 through 2013.''.

(c) ALIGNMENT OF EDUCATION PROGRAMS.—Section 6201(j), as redesignated by section 1002(b)(3), is amended to read as follows:

''(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $120,000,000 for each of fiscal years 2011 and 2012.''.

SA 4844. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 5281, to amend title 28, United States Code, to clarify and improve certain provisions relating to the removal of litigation against Federal officers or agencies to Federal courts, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the House amendment, add the following:

SEC. 17. BORDER FENCE COMPLETION.

(a) MINIMUM REQUIREMENTS.—Section 102(b)(1) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1103 note) is amended—

(1) in subparagraph (A), by adding at the end the following: ''Fencing that does not effectively restrain pedestrian traffic (such as vehicle barriers and virtual fencing) may not be used to meet the 700-mile fence requirement under this subparagraph.'';

(2) in subparagraph (B)—

(A) in clause (i), by striking ''and'' at the end;

(B) in clause (ii), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(iii) not later than 1 year after the date of the enactment of the DREAM Act of 2010, complete the construction of all the reinforced fencing and the installation of the related equipment described in subparagraph (A).''; and

(3) in subparagraph (C), by adding at the end the following:

''(iii) FUNDING NOT CONTINGENT ON CONSULTATION.—Amounts appropriated to carry out this paragraph may not be impounded or otherwise withheld for failure to fully comply with the consultation requirement under clause (i).''.

(b) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Secretary of Homeland Security shall submit a report to Congress that describes—

(1) the progress made in completing the reinforced fencing required under section 102(b)(1) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1103 note), as amended by this Act; and

(2) the plans for completing such fencing not later than 1 year after the date of the enactment of this Act.

SA 4845. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 303, to reauthorize and improve the Federal Financial Assistance Management Improvement Act of 1999; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''America's Great Outdoors Act of 2010''.

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into the following divisions:

(1) Division A–National Park Service Authorizations.

(2) Division B–National Wilderness Preservation System.

(3) Division C–Forest Service Authorizations.

(4) Division D–Department of the Interior Authorizations.

(5) Division E–National Heritage Areas.

(6) Division F–Bureau of Land Management Authorizations.

(7) Division G–Rivers and Trails.

(8) Division H–Water and Hydropower Authorizations.

(9) Division I–Insular Areas.

(10) Division J–Wildlife Conservation and Water Quality Protection and Restoration.

(11) Division K–Oceans and Fisheries.

(12) Division L–Indian Homelands and Trust Land.

(13) Division M–Miscellaneous.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

DIVISION A—NATIONAL PARK SERVICE AUTHORIZATIONS

TITLE I—ADDITIONS TO THE NATIONAL PARK SYSTEM

Subtitle A—Valles Caldera National Preserve

SEC. 101. DEFINITIONS.

In this subtitle:

(1) ELIGIBLE EMPLOYEE.—The term ''eligible employee'' means a person who was a full-time or part-time employee of the Trust during the 180-day period immediately preceding the date of enactment of this Act.

(2) FUND.—The term ''Fund'' means the Valles Caldera Fund established by section 106(h)(2) of the Valles Caldera Preservation Act (16 U.S.C. 698v–4(h)(2)).

(3) PRESERVE.—The term ''Preserve'' means the Valles Caldera National Preserve in the State.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(5) STATE.—The term ''State'' means the State of New Mexico.

(6) TRUST.—The term ''Trust'' means the Valles Caldera Trust established by section 106(a) of the Valles Caldera Preservation Act (16 U.S.C. 698v–4(a)).

SEC. 102. VALLES CALDERA NATIONAL PRESERVE.

(a) DESIGNATION AS UNIT OF THE NATIONAL PARK SYSTEM.—To protect, preserve, and restore the fish, wildlife, watershed, natural, scientific, scenic, geologic, historic, cultural, archaeological, and recreational values of the area, the Valles Caldera National Preserve is designated as a unit of the National Park System.

(b) MANAGEMENT.—

(1) APPLICABLE LAW.—The Secretary shall administer the Preserve in accordance with—

(A) this subtitle; and

(B) the laws generally applicable to units of the National Park System, including—

(i) the National Park Service Organic Act (16 U.S.C. 1 et seq.); and

(ii) the Act of August 21, 1935 (16 U.S.C. 461 et seq.).

(2) MANAGEMENT COORDINATION.—The Secretary may coordinate the management and operations of the Preserve with the Bandelier National Monument.

(3) MANAGEMENT PLAN.—

(A) IN GENERAL.—Not later than 3 fiscal years after the date on which funds are made available to implement this subsection, the Secretary shall prepare a management plan for the Preserve.

(B) APPLICABLE LAW.—The management plan shall be prepared in accordance with—

(i) section 12(b) of Public Law 91–383 (commonly known as the ''National Park Service General Authorities Act'') (16 U.S.C. 1a–7(b)); and

(ii) any other applicable laws.

(C) CONSULTATION.—The management plan shall be prepared in consultation with—

(i) the Secretary of Agriculture;

(ii) State and local governments;

(iii) Indian tribes and pueblos, including the Pueblos of Jemez, Santa Clara, and San Ildefonso; and

(iv) the public.

(c) ACQUISITION OF LAND.—

(1) IN GENERAL.—The Secretary may acquire land and interests in land within the boundaries of the Preserve by—

(A) purchase with donated or appropriated funds;

(B) donation; or

(C) transfer from another Federal agency.

(2) ADMINISTRATION OF ACQUIRED LAND.—On acquisition of any land or interests in land under paragraph (1), the acquired land or interests in land shall be administered as part of the Preserve.

(d) SCIENCE AND EDUCATION PROGRAM.—

(1) IN GENERAL.—The Secretary shall—

(A) until the date on which a management plan is completed in accordance with subsection (b)(3), carry out the science and education program for the Preserve established by the Trust; and

(B) beginning on the date on which a management plan is completed in accordance with subsection (b)(3), establish a science and education program for the Preserve that—

(i) allows for research and interpretation of the natural, historic, cultural, geologic and other scientific features of the Preserve;

(ii) provides for improved methods of ecological restoration and science-based adaptive management of the Preserve; and

(iii) promotes outdoor educational experiences in the Preserve.

(2) SCIENCE AND EDUCATION CENTER.—As part of the program established under paragraph (1)(B), the Secretary may establish a science and education center outside the boundaries of the Preserve.

(e) GRAZING.—The Secretary may allow the grazing of livestock within the Preserve to continue—

(1) consistent with this subtitle; and

(2) to the extent the use furthers scientific research or interpretation of the ranching history of the Preserve.

(f) FISH AND WILDLIFE.—Nothing in this subtitle affects the responsibilities of the State with respect to fish and wildlife in the State, except that the Secretary, in consultation with the New Mexico Department of Game and Fish—

(1) shall permit hunting and fishing on land and water within the Preserve in accordance with applicable Federal and State laws; and

(2) may designate zones in which, and establish periods during which, no hunting or fishing shall be permitted for reasons of public safety, administration, the protection of wildlife and wildlife habitats, or public use and enjoyment.

(g) ECOLOGICAL RESTORATION.—

(1) IN GENERAL.—The Secretary shall undertake activities to improve the health of forest, grassland, and riparian areas within the Preserve, including any activities carried out in accordance with title IV of the Omnibus Public Land Management Act of 2009 (16 U.S.C. 7301 et seq.).

(2) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with adjacent pueblos to coordinate activities carried out under paragraph (1) on the Preserve and adjacent pueblo land.

(h) WITHDRAWAL.—Subject to valid existing rights, all land and interests in land within the boundaries of the Preserve are withdrawn from—

(1) entry, disposal, or appropriation under the public land laws;

(2) location, entry, and patent under the mining laws; and

(3) operation of the mineral leasing laws, geothermal leasing laws, and mineral materials laws.

(i) VOLCANIC DOMES AND OTHER PEAKS.—

(1) IN GENERAL.—Except as provided in paragraph (3), for the purposes of preserving the natural, cultural, religious, archaeological, and historic resources of the volcanic domes and other peaks in the Preserve described in paragraph (2) within the area of the domes and peaks above 9,600 feet in elevation or 250 feet below the top of the dome, whichever is lower—

(A) no roads or buildings shall be constructed; and

(B) no motorized access shall be allowed.

(2) DESCRIPTION OF VOLCANIC DOMES.—The volcanic domes and other peaks referred to in paragraph (1) are—

(A) Redondo Peak;

(B) Redondito;
(C) South Mountain;
(D) San Antonio Mountain;
(E) Cerro Seco;
(F) Cerro San Luis;
(G) Cerros Santa Rosa;
(H) Cerros del Abrigo;
(I) Cerro del Medio;
(J) Rabbit Mountain;
(K) Cerro Grande;
(L) Cerro Toledo;
(M) Indian Point;
(N) Sierra de los Valles; and
(O) Cerros de los Posos.

(3) EXCEPTION.—Paragraph (1) shall not apply in cases in which construction or motorized access is necessary for administrative purposes (including ecological restoration activities or measures required in emergencies to protect the health and safety of persons in the area).

(j) TRADITIONAL CULTURAL AND RELIGIOUS SITES.—

(1) IN GENERAL.—The Secretary, in consultation with Indian tribes and pueblos, shall ensure the protection of traditional cultural and religious sites in the Preserve.

(2) ACCESS.—The Secretary, in accordance with Public Law 95–341 (commonly known as the ''American Indian Religious Freedom Act'') (42 U.S.C. 1996)—

(A) shall provide access to the sites described in paragraph (1) by members of Indian tribes or pueblos for traditional cultural and customary uses; and

(B) may, on request of an Indian tribe or pueblo, temporarily close to general public use 1 or more specific areas of the Preserve to protect traditional cultural and customary uses in the area by members of the Indian tribe or pueblo.

(3) PROHIBITION ON MOTORIZED ACCESS.—The Secretary shall maintain prohibitions on the use of motorized or mechanized travel on Preserve land located adjacent to the Santa Clara Indian Reservation, to the extent the prohibition was in effect on the date of enactment of this Act.

(k) CALDERA RIM TRAIL.—

(1) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Agriculture, affected Indian tribes and pueblos, and the public, shall study the feasibility of establishing a hiking trail along the rim of the Valles Caldera on—

(A) land within the Preserve; and

(B) National Forest System land that is adjacent to the Preserve.

(2) AGREEMENTS.—On the request of an affected Indian tribe or pueblo, the Secretary and the Secretary of Agriculture shall seek to enter into an agreement with the Indian tribe or pueblo with respect to the Caldera Rim Trail that provides for the protection of—

(A) cultural and religious sites in the vicinity of the trail; and

(B) the privacy of adjacent pueblo land.

(l) VALID EXISTING RIGHTS.—Nothing in this subtitle affects valid existing rights.

SEC. 103. TRANSFER OF ADMINISTRATIVE JURISDICTION.

(a) IN GENERAL.—Administrative jurisdiction over the Preserve is transferred from the Secretary of Agriculture and the Trust to the Secretary, to be administered as a unit of the National Park System, in accordance with section 102.

(b) EXCLUSION FROM SANTA FE NATIONAL FOREST.—The boundaries of the Santa Fe National Forest are modified to exclude the Preserve.

(c) INTERIM MANAGEMENT.—

(1) MEMORANDUM OF AGREEMENT.—Not later than 90 days after the date of enactment of this Act, the Secretary and the Trust shall enter into a memorandum of agreement to facilitate the orderly transfer to the Secretary of the administration of the Preserve.

(2) EXISTING MANAGEMENT PLANS.—Notwithstanding the repeal made by section 104(a), until the date on which the Secretary completes a management plan for the Preserve in accordance with section 102(b)(3), the Secretary may administer the Preserve in accordance with any management activities or plans adopted by the Trust under the Valles Caldera Preservation Act (16 U.S.C. 698v et seq.), to the extent the activities or plans are consistent with section 102(b)(1).

(3) PUBLIC USE.—The Preserve shall remain open to public use during the interim management period, subject to such terms and conditions as the Secretary determines to be appropriate.

(d) VALLES CALDERA TRUST.—

(1) TERMINATION.—The Trust shall terminate 180 days after the date of enactment of this Act unless the Secretary determines that the termination date should be extended to facilitate the transitional management of the Preserve.

(2) ASSETS AND LIABILITIES.—

(A) ASSETS.—On termination of the Trust—

(i) all assets of the Trust shall be transferred to the Secretary; and

(ii) any amounts appropriated for the Trust shall remain available to the Secretary for the administration of the Preserve.

(B) ASSUMPTION OF OBLIGATIONS.—

(i) IN GENERAL.—On termination of the Trust, the Secretary shall assume all contracts, obligations, and other liabilities of the Trust.

(ii) NEW LIABILITIES.—

(I) BUDGET.—Not later than 90 days after the date of enactment of this Act, the Secretary and the Trust shall prepare a budget for the interim management of the Preserve.

(II) WRITTEN CONCURRENCE REQUIRED.—The Trust shall not incur any new liabilities not authorized in the budget prepared under subclause (I) without the written concurrence of the Secretary.

(3) PERSONNEL.—

(A) HIRING.—The Secretary and the Secretary of Agriculture may hire employees of the Trust on a noncompetitive basis for comparable positions at the Preserve or other areas or offices under the jurisdiction of the Secretary or the Secretary of Agriculture.

(B) SALARY.—Any employees hired from the Trust under subparagraph (A) shall be subject to the provisions of chapter 51, and subchapter III of chapter 53, title 5, United States Code, relating to classification and General Schedule pay rates.

(C) INTERIM RETENTION OF ELIGIBLE EMPLOYEES.—For a period of not less than 180 days beginning on the date of enactment of this Act, all eligible employees of the Trust shall be—

(i) retained in the employment of the Trust;

(ii) considered to be placed on detail to the Secretary; and

(iii) subject to the direction of the Secretary.

(D) TERMINATION FOR CAUSE.—Nothing in this paragraph precludes the termination of employment of an eligible employee for cause during the period described in subparagraph (C).

(4) RECORDS.—The Secretary shall have access to all records of the Trust pertaining to the management of the Preserve.

(5) VALLES CALDERA FUND.—

(A) IN GENERAL.—Effective on the date of enactment of this Act, the Secretary shall assume the powers of the Trust over the Fund.

(B) AVAILABILITY AND USE.—Any amounts in the Fund as of the date of enactment of this Act shall be available to the Secretary for use, without further appropriation, for the management of the Preserve.

SEC. 104. REPEAL OF VALLES CALDERA PRESERVATION ACT.

(a) REPEAL.—On the termination of the Trust, the Valles Caldera Preservation Act (16 U.S.C. 698v et seq.) is repealed.

(b) EFFECT OF REPEAL.—Notwithstanding the repeal made by subsection (a)—

(1) the authority of the Secretary of Agriculture to acquire mineral interests under section 104(e) of the Valles Caldera Preservation Act (16 U.S.C. 698v–2(e)) is transferred to the Secretary and any proceeding for the condemnation of, or payment of compensation for, an outstanding mineral interest pursuant to the transferred authority shall continue;

(2) the provisions in section 104(g) of the Valles Caldera Preservation Act (16 U.S.C. 698v–2(g)) relating to the Pueblo of Santa Clara shall remain in effect; and

(3) the Fund shall not be terminated until all amounts in the Fund have been expended by the Secretary.

(c) BOUNDARIES.—The repeal of the Valles Caldera Preservation Act (16 U.S.C. 698v et seq.) shall not affect the boundaries as of the date of enactment of this Act (including maps and legal descriptions) of—

(1) the Preserve;

(2) the Santa Fe National Forest (other than the modification made by section 103(b));

(3) Bandelier National Monument; and

(4) any land conveyed to the Pueblo of Santa Clara.

SEC. 105. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this subtitle.

Subtitle B—Waco Mammoth National Monument

SEC. 111. DEFINITIONS.

In this subtitle the following definitions apply:

(1) NATIONAL MONUMENT.—The term ''national monument'' means the Waco Mammoth National Monument, established in section 112.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(3) MAP.—The term ''map'' means the map titled ''Proposed Boundary Waco-Mammoth National Monument'', numbered T21/80,000, and dated April, 2009.

SEC. 112. WACO MAMMOTH NATIONAL MONUMENT, TEXAS.

(a) ESTABLISHMENT.—There is established the Waco Mammoth National Monument in the State of Texas, as a unit of the National Park System, as generally depicted on the map.

(b) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

SEC. 113. ADMINISTRATION OF NATIONAL MONUMENT.

(a) IN GENERAL.—The Secretary shall administer the national monument in accordance with this subtitle, the cooperative agreements described in this section, and laws and regulations generally applicable to units of the National Park System, including the National Park Service Organic Act (39 Stat. 535, 16 U.S.C. 1).

(b) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements for the management of the national monument with Baylor University and City of Waco, pursuant to the National Park Service General Authorities Act (16 U.S.C. 1a–2(1)).

SEC. 114. ACQUISITION OF PROPERTY AND BOUNDARY MANAGEMENT.

(a) ACQUISITION OF PROPERTY.—The Secretary is authorized to acquire from willing

sellers lands, or interests in lands, within the proposed boundary of the national monument necessary for effective management.

(b) CONDITIONS.—Lands identified in subsection (a) may be acquired—

(1) by donation, purchase with donated or appropriated funds, transfer from another Federal agency, or by exchange; and

(2) in the case of lands owned by the State of Texas, or a political subdivision thereof, or Baylor University only by donation or exchange.

SEC. 115. CONSTRUCTION OF FACILITIES ON NON-FEDERAL LANDS.

(a) IN GENERAL.—The Secretary is authorized, subject to the appropriation of necessary funds, to construct essential administrative or visitor use facilities on non-Federal lands within the national monument.

(b) OTHER FUNDING.—In addition to the use of Federal funds authorized in subsection (a), the Secretary may use donated funds, property, and services to carry out this section.

SEC. 116. GENERAL MANAGEMENT PLAN.

(a) IN GENERAL.—Not later than three years after the date on which funds are made available to carry out this subtitle, the Secretary, in consultation with Baylor University and City of Waco, shall prepare a management plan for the national monument.

(b) INCLUSIONS.—The management plan shall include, at a minimum—

(1) measures for the preservation of the resources of the national monument;

(2) requirements for the type and extent of development and use of the national monument;

(3) identification of visitor carrying capacities for national monument; and

(4) opportunities for involvement by Baylor University, the City of Waco, the State of Texas, and other local and national entities in the formulation of educational programs for the national monument and for developing and supporting the national monument.

TITLE II—EXISTING UNITS OF THE NATIONAL PARK SYSTEM

Subtitle A—Oregon Caves National Monument Expansion

SEC. 201. DEFINITIONS.

In this subtitle:

(1) MAP.—The term ''map'' means the map entitled ''Oregon Caves National Monument and Preserve'', numbered 150/80,023, and dated May 2010.

(2) MONUMENT.—The term ''Monument'' means the Oregon Caves National Monument established by Presidential Proclamation Number 876 (36 Stat. 2497), dated July 12, 1909.

(3) NATIONAL MONUMENT AND PRESERVE.—The term ''National Monument and Preserve'' means the Oregon Caves National Monument and Preserve designated by section 202(a)(1).

(4) NATIONAL PRESERVE.—The term ''National Preserve'' means the National Preserve designated by section 202(a)(2).

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(6) SECRETARY CONCERNED.—The term ''Secretary concerned'' means—

(A) the Secretary of Agriculture (acting through the Chief of the Forest Service), with respect to National Forest System land; and

(B) the Secretary of the Interior, with respect to land managed by the Bureau of Land Management.

(7) STATE.—The term ''State'' means the State of Oregon.

SEC. 202. DESIGNATIONS; LAND TRANSFER; BOUNDARY ADJUSTMENT.

(a) DESIGNATIONS.—

(1) IN GENERAL.—The Monument and the National Preserve shall be administered as a single unit of the National Park System and collectively known and designated as the ''Oregon Caves National Monument and Preserve''.

(2) NATIONAL PRESERVE.—The approximately 4,070 acres of land identified on the map as ''Proposed Addition Lands'' shall be designated as a National Preserve.

(b) TRANSFER OF ADMINISTRATIVE JURISDICTION.—

(1) IN GENERAL.—Administrative jurisdiction over the land designated as a National Preserve under subsection (a)(2) is transferred from the Secretary of Agriculture to the Secretary, to be administered as part of the National Monument and Preserve.

(2) EXCLUSION OF LAND.—The boundaries of the Rogue River-Siskiyou National Forest are adjusted to exclude the land transferred under paragraph (1).

(c) BOUNDARY ADJUSTMENT.—The boundary of the National Monument and Preserve is modified to exclude approximately 4 acres of land—

(1) located in the City of Cave Junction; and

(2) identified on the map as the ''Cave Junction Unit''.

(d) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(e) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Monument shall be considered to be a reference to the ''Oregon Caves National Monument and Preserve''.

SEC. 203. ADMINISTRATION.

(a) IN GENERAL.—The Secretary shall administer the National Monument and Preserve in accordance with—

(1) this subtitle;

(2) Presidential Proclamation Number 876 (36 Stat. 2497), dated July 12, 1909; and

(3) any law (including regulations) generally applicable to units of the National Park System, including the National Park Service Organic Act (16 U.S.C. 1 et seq.).

(b) FIRE MANAGEMENT.—As soon as practicable after the date of enactment of this Act, in accordance with subsection (a), the Secretary shall—

(1) revise the fire management plan for the Monument to include the land transferred under section 202(b)(1); and

(2) in accordance with the revised plan, carry out hazardous fuel management activities within the boundaries of the National Monument and Preserve.

(c) EXISTING FOREST SERVICE CONTRACTS.—

(1) IN GENERAL.—The Secretary shall—

(A) allow for the completion of any Forest Service stewardship or service contract executed as of the date of enactment of this Act with respect to the National Preserve; and

(B) recognize the authority of the Secretary of Agriculture for the purpose of administering a contract described in subparagraph (A) through the completion of the contract.

(2) TERMS AND CONDITIONS.—All terms and conditions of a contract described in paragraph (1)(A) shall remain in place for the duration of the contract.

(3) LIABILITY.—The Forest Service shall be responsible for any liabilities relating to a contract described in paragraph (1)(A).

(d) GRAZING.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary may allow the grazing of livestock within the National Preserve to continue as authorized under permits or leases in existence as of the date of enactment of this Act.

(2) APPLICABLE LAW.—Grazing under paragraph (1) shall be—

(A) at a level not greater than the level at which the grazing exists as of the date of enactment of this Act, as measured in Animal Unit Months; and

(B) in accordance with each applicable law (including National Park Service regulations).

(e) FISH AND WILDLIFE.—The Secretary shall permit hunting and fishing on land and waters within the National Preserve in accordance with applicable Federal and State laws, except that the Secretary may, in consultation with the Oregon Department of Fish and Wildlife, designate zones in which, and establish periods during which, no hunting or fishing shall be permitted for reasons of public safety, administration, or compliance by the Secretary with any applicable law (including regulations).

SEC. 204. VOLUNTARY GRAZING LEASE OR PERMIT DONATION PROGRAM.

(a) DONATION OF LEASE OR PERMIT.—

(1) ACCEPTANCE BY SECRETARY CONCERNED.—The Secretary concerned shall accept a grazing lease or permit that is donated by a lessee or permittee for—

(A) the Big Grayback Grazing Allotment located in the Rogue River-Siskiyou National Forest; and

(B) the Billy Mountain Grazing Allotment located on a parcel of land that is managed by the Secretary (acting through the Director of the Bureau of Land Management).

(2) TERMINATION.—With respect to each grazing permit or lease donated under paragraph (1), the Secretary shall—

(A) terminate the grazing permit or lease; and

(B) ensure a permanent end to grazing on the land covered by the grazing permit or lease.

(b) EFFECT OF DONATION.—A lessee or permittee that donates a grazing lease or grazing permit (or a portion of a grazing lease or grazing permit) under this section shall be considered to have waived any claim to any range improvement on the associated grazing allotment or portion of the associated grazing allotment, as applicable.

SEC. 205. WILD AND SCENIC RIVER DESIGNATIONS.

(a) DESIGNATION.—Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding at the end the following:

''(208) RIVER STYX, OREGON.—The subterranean segment of Cave Creek, known as the River Styx, to be administered by the Secretary of the Interior as a scenic river.''.

(b) POTENTIAL ADDITIONS.—

(1) IN GENERAL.—Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)) is amended by adding at the end the following:

''(141) OREGON CAVES NATIONAL MONUMENT AND PRESERVE, OREGON.—

''(A) CAVE CREEK, OREGON.—The 2.6-mile segment of Cave Creek from the headwaters at the River Styx to the boundary of the Rogue River Siskiyou National Forest.

''(B) LAKE CREEK, OREGON.—The 3.6-mile segment of Lake Creek from the headwaters at Bigelow Lakes to the confluence with Cave Creek.

''(C) NO NAME CREEK, OREGON.—The 0.6-mile segment of No Name Creek from the headwaters to the confluence with Cave Creek.

''(D) PANTHER CREEK.—The 0.8-mile segment of Panther Creek from the headwaters to the confluence with Lake Creek.

''(E) UPPER CAVE CREEK.—The segment of Upper Cave Creek from the headwaters to the confluence with River Styx.''.

(2) STUDY; REPORT.—Section 5(b) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(b)) is amended by adding at the end the following:

''(20) OREGON CAVES NATIONAL MONUMENT AND PRESERVE, OREGON.—Not later than 3

years after the date on which funds are made available to carry out this paragraph, the Secretary shall—

''(A) complete the study of the Oregon Caves National Monument and Preserve segments described in subsection (a)(141); and

''(B) submit to Congress a report containing the results of the study.''.

Subtitle B—Minuteman Missile National Historic Site Boundary Modification

SEC. 211. BOUNDARY MODIFICATION.

Section 3(a) of the Minuteman Missile National Historic Site Establishment Act of 1999 (16 U.S.C. 461 note; Public Law 106–115) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(2) by inserting after paragraph (2) the following:

''(3) VISITOR FACILITY AND ADMINISTRATIVE SITE.—

''(A) IN GENERAL.—In addition to the components described in paragraph (2), the historic site shall include a visitor facility and administrative site located on the parcel of land described in subparagraph (B).

''(B) DESCRIPTION OF LAND.—The land referred to in subparagraph (A) consists of approximately 25 acres of land within the Buffalo Gap National Grassland in South Dakota as generally depicted on the map entitled 'Minuteman Missile National Historic Site Boundary Modification', numbered 406/80,011, and dated July 17, 2009.

''(C) AVAILABILITY OF MAP.—The map described in subparagraph (B) shall be kept on file and available for public inspection in the appropriate offices of the National Park Service.

''(D) TRANSFER OF ADMINISTRATIVE JURISDICTION.—Administrative jurisdiction over the land described in subparagraph (B) is transferred from the Secretary of Agriculture to the Secretary, to be administered as part of the historic site.

''(E) BOUNDARY ADJUSTMENT.—The boundaries of the Buffalo Gap National Grasslands are modified to exclude the land transferred under subparagraph (D).''.

Subtitle C—Indiana Dunes National Lakeshore Visitor Center

SEC. 221. DOROTHY BUELL MEMORIAL VISITOR CENTER.

(a) MEMORANDUM OF UNDERSTANDING.—The Secretary of the Interior may enter into a memorandum of understanding to establish a joint partnership with the Porter County Convention, Recreation and Visitor Commission. The memorandum of understanding shall—

(1) identify the overall goals and purpose of the Dorothy Buell Memorial Visitor Center;

(2) establish how management and operational duties will be shared;

(3) determine how exhibits, signs, and other information are developed;

(4) indicate how various activities will be funded;

(5) identify who is responsible for providing site amenities;

(6) establish procedures for changing or dissolving the joint partnership; and

(7) address any other issues deemed necessary by the Secretary or the Porter County Convention, Recreation and Visitor Commission.

(b) DEVELOPMENT OF EXHIBITS.—The Secretary may plan, design, construct, and install exhibits in the Dorothy Buell Memorial Visitor Center related to the use and management of the resources at Indiana Dunes National Lakeshore, at a cost not to exceed $1,500,000.

(c) NATIONAL LAKESHORE PRESENCE.—The Secretary may use park staff from Indiana Dunes National Lakeshore in the Dorothy Buell Memorial Visitor Center to provide visitor information and education.

SEC. 222. INDIANA DUNES NATIONAL LAKESHORE.

Section 19 of the Act entitled ''An Act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes'' (16 U.S.C. 460u–19) is amended—

(1) by striking ''After notifying'' and inserting ''(a) After notifying''; and

(2) by adding at the end the following:

''(b) CONTIGUOUS CLARIFIED.—For purposes of subsection (a), lands may be considered contiguous to other lands if the lands touch the other lands, or are separated from the other lands by only a public or private right-of-way, such as a road, railroad, or utility corridor.''.

Subtitle D—North Cascades National Park Fish Stocking

SEC. 231. DEFINITIONS.

In this subtitle:

(1) NORTH CASCADES NATIONAL PARK SERVICE COMPLEX.—The term ''North Cascades National Park Service Complex'' means collectively the North Cascades National Park, Ross Lake National Recreation Area, and Lake Chelan National Recreation Area.

(2) PLAN.—The term ''plan'' means the document entitled ''North Cascades National Park Service Complex Mountain Lakes Fishery Management Plan and Environmental Impact Statement'' and dated June 2008.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

SEC. 232. STOCKING OF CERTAIN LAKES IN THE NORTH CASCADES NATIONAL PARK SERVICE COMPLEX.

(a) IN GENERAL.—Subject to subsection (b), the Secretary shall authorize the stocking of fish in lakes in the North Cascades National Park Service Complex.

(b) CONDITIONS.—

(1) IN GENERAL.—The Secretary is authorized to allow stocking of fish in not more than 42 of the 91 lakes in the North Cascades National Park Service Complex that have historically been stocked with fish.

(2) NATIVE NONREPRODUCING FISH.—The Secretary shall only stock fish that are—

(A) native to the slope of the Cascade Range on which the lake to be stocked is located; and

(B) nonreproducing, as identified in management alternative B of the plan.

(3) CONSIDERATIONS.—In making fish stocking decisions under this subtitle, the Secretary shall make use of relevant scientific information, including the plan and information gathered under subsection (c).

(4) REQUIRED COORDINATION.—The Secretary shall coordinate the stocking of fish under this subtitle with the State of Washington.

(c) RESEARCH AND MONITORING.—The Secretary shall—

(1) continue a program of research and monitoring of the impacts of fish stocking on the resources of the applicable unit of the North Cascades National Park Service Complex; and

(2) beginning on the date that is 5 years after the date of enactment of this Act and every 5 years thereafter, submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a report that describes the results of the research and monitoring under paragraph (1).

Subtitle E—Petersburg National Battlefield Boundary Modification

SEC. 241. BOUNDARY MODIFICATION.

(a) IN GENERAL.—The boundary of Petersburg National Battlefield is modified to include the properties as generally depicted on the map titled ''Petersburg National Battlefield Boundary Expansion'', numbered 325/80,080, and dated June 2007. The map shall be on file and available for inspection in the appropriate offices of the National Park Service.

(b) ACQUISITION OF PROPERTIES.—The Secretary of the Interior (referred to in this subtitle as the ''Secretary'') is authorized to acquire the lands or interests in land, described in subsection (a), from willing sellers only by donation, purchase with donated or appropriated funds, exchange, or transfer.

(c) ADMINISTRATION.—The Secretary shall administer any land or interests in land acquired under this section as part of the Petersburg National Battlefield in accordance with applicable laws and regulations.

SEC. 242. ADMINISTRATIVE JURISDICTION TRANSFER.

(a) IN GENERAL.—The Secretary and the Secretary of the Army are authorized to transfer administrative jurisdiction for approximately 1.171 acres of land under the jurisdiction of the Department of the Interior within the boundary of the Petersburg National Battlefield, for approximately 1.170 acres of land under the jurisdiction of the Department of the Army within the boundary of the Fort Lee Military Reservation adjacent to the boundary of the Petersburg National Battlefield.

(b) MAP.—The land to be exchanged is depicted on the map titled ''Petersburg National Battlefield Proposed Transfer of Administrative Jurisdiction'', numbered 325/80,081, and dated October 2009. The map shall be available for public inspection in the appropriate offices of the National Park Service.

(c) CONDITIONS OF TRANSFER.—The transfer of administrative jurisdiction authorized in subsection (a) shall be subject to the following conditions:

(1) NO REIMBURSEMENT OR CONSIDERATION.—The transfer shall occur without reimbursement or consideration.

(2) DEADLINE.—The Secretary and the Secretary of the Army shall complete the transfers authorized by this section not later than 120 days after the funds are made available for that purpose.

(3) MANAGEMENT.—The land conveyed to the Secretary under subsection (a) shall be included within the boundary of the Petersburg National Battlefield and shall be administered as part of the park in accordance with applicable laws and regulations.

Subtitle F—Gettysburg National Battlefield Boundary Modification

SEC. 251. GETTYSBURG NATIONAL MILITARY PARK BOUNDARY REVISION.

Section 1 of the Act titled ''An Act to revise the boundary of the Gettysburg National Military Park in the Commonwealth of Pennsylvania, and for other purposes'', approved August 17, 1990 (16 U.S.C. 430g–4), is amended by adding at the end the following:

''(d) ADDITIONAL LAND.—In addition to the land identified in subsections (a) and (b), the park shall also include the following, as depicted on the map titled 'Gettysburg National Military Park Proposed Boundary Addition', numbered 305/80,045 and dated January 2010:

''(1) The land and interests in land commonly known as the 'Gettysburg Train Station' and its immediate surroundings in the Borough of Gettysburg.

''(2) The land and interests in land located along Plum Run in Cumberland Township.''.

SEC. 252. ACQUISITION AND DISPOSAL OF LAND.

Section 2 of that Act (16 U.S.C. 430g–5) is amended by adding at the end of subsection (a) the following: ''The Secretary is also authorized to acquire publicly owned property within the area defined in section 1(d)(1) by purchase, from willing sellers only, if efforts to acquire that property without cost have been exhausted. The Secretary may not acquire property within the area defined in section 1(d) by eminent domain.''.

Subtitle G—Cane River National Historical Park Curatorial Center

SEC. 261. COLLECTIONS CONSERVATION CENTER.

Section 304 of the Cane River Creole National Historical Park and National Heritage Area Act (16 U.S.C. 410ccc–2) is amended by adding at the end the following:

''(f) COLLECTIONS CONSERVATION CENTER.—

''(1) IN GENERAL.—Subject to the appropriation of the full cost of construction in advance, the Secretary may enter into an agreement with Northwestern State University (referred to in this subsection as the 'University') to construct a facility on land owned by the University to be used—

''(A) to house the museum collection of the historical park;

''(B) to provide additional space for use by the National Center for Preservation Technology and Training; and

''(C) to provide space to the University for educational purposes relating to the Williamson Museum collection, if the University pays an appropriate rental fee to the National Park Service, as determined in the agreement entered into under this paragraph.

''(2) USE OF FEE.—Proceeds from the rental fees collected under paragraph (1)(C) shall be available until expended, without further appropriation, for the historical park.

''(3) TERMS OF LEASE.—The Secretary may enter into a lease with the University for a term of not more than 40 years if the land made available by the University under paragraph (1) is leased at a nominal cost to the Secretary.''.

SEC. 262. TECHNICAL CORRECTIONS.

The Cane River Creole National Historical Park and National Heritage Area Act (16 U.S.C. 410ccc et seq.) is amended—

(1) in the third sentence of section 304(e) (16 U.S.C. 410ccc–2(e)), by striking ''of Technology'' and inserting ''Technology''; and

(2) in section 305(a) (16 U.S.C. 410ccc–3(a)), by striking ''interest'' and inserting ''interests''.

TITLE III—SPECIAL RESOURCE STUDIES

SEC. 301. NEW PHILADELPHIA, ILLINOIS.

(a) DEFINITIONS.—In this section:

(1) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(2) STUDY AREA.—The term ''Study Area'' means the New Philadelphia archeological site and the surrounding land in the State of Illinois.

(b) STUDY.—The Secretary shall conduct a special resource study of the Study Area.

(c) CONTENTS.—In conducting the study under subsection (b), the Secretary shall—

(1) evaluate the national significance of the Study Area;

(2) determine the suitability and feasibility of designating the Study Area as a unit of the National Park System;

(3) consider other alternatives for preservation, protection, and interpretation of the Study Area by—

(A) Federal, State, or local governmental entities; or

(B) private and nonprofit organizations;

(4) consult with—

(A) interested Federal, State, or local governmental entities;

(B) private and nonprofit organizations; or

(C) any other interested individuals; and

(5) identify cost estimates for any Federal acquisition, development, interpretation, operation, and maintenance associated with the alternatives considered under paragraph (3).

(d) APPLICABLE LAW.—The study required under subsection (b) shall be conducted in accordance with section 8 of Public Law 91–383 (16 U.S.C. 1a–5).

(e) REPORT.—Not later than 3 years after the date on which funds are first made available for the study under subsection (b), the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report containing—

(1) the results of the study; and

(2) any conclusions and recommendations of the Secretary.

SEC. 302. GEORGE C. MARSHALL HOME, VIRGINIA.

(a) STUDY.—The Secretary of the Interior (referred to in this section as the ''Secretary'') shall conduct a special resource study of the Dodona Manor and gardens in Leesburg, Virginia, the home of George C. Marshall during the most important period of Marshall's career (referred to in this section as the ''study area'').

(b) CONTENTS.—In conducting the study under subsection (a), the Secretary shall—

(1) evaluate the national significance of the study area and the surrounding area;

(2) determine the suitability and feasibility of designating the study area as an affiliated area of the National Park System;

(3) consider other alternatives for the preservation, protection, and interpretation of the study area by—

(A) the Federal Government;

(B) State or local governmental entities; or

(C) private or nonprofit organizations;

(4) consult with interested—

(A) Federal, State, or local governmental entities;

(B) private or nonprofit organizations; or

(C) any other interested individuals; and

(5) identify cost estimates for any Federal acquisition, development, interpretation, operation, and maintenance associated with the alternatives considered under paragraph (3).

(c) APPLICABLE LAW.—The study required under subsection (a) shall be conducted in accordance with section 8 of Public Law 91–383 (16 U.S.C. 1a–5).

(d) REPORT.—Not later than 3 years after the date on which funds are first made available to carry out the study under subsection (a), the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a report that contains a description of—

(1) the results of the study; and

(2) any conclusions and recommendations of the Secretary.

SEC. 303. HEART MOUNTAIN RELOCATION CENTER, WYOMING.

(a) STUDY.—The Secretary of the Interior shall conduct a special resource study of the Heart Mountain Relocation Center, in Park County, Wyoming.

(b) CONTENTS.—In conducting the study under subsection (a), the Secretary shall—

(1) evaluate the national significance of the Heart Mountain Relocation Center and surrounding area;

(2) determine the suitability and feasibility of designating the Heart Mountain Relocation Center as a unit of the National Park System;

(3) consider other alternatives for preservation, protection, and interpretation of the site by Federal, State, or local governmental entities, or private and nonprofit organizations;

(4) identify cost estimates for any Federal acquisition, development, interpretation, operation, and maintenance associated with the alternatives;

(5) identify any potential impacts of designation of the site as a unit of the National Park System on private landowners; and

(6) consult with interested Federal, State, or local governmental entities, federally recognized Indian tribes, private and nonprofit organizations, owners of private property that may be affected by any such designation, or any other interested individuals.

(c) APPLICABLE LAW.—The study required under subsection (a) shall be conducted in accordance with section 8 of Public Law 91–383 (16 U.S.C. 1a–5).

(d) REPORT.—Not later than 3 years after the date on which funds are first made available for the study under subsection (a), the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report containing the results of the study and any conclusions and recommendations of the Secretary.

SEC. 304. COLONEL CHARLES YOUNG HOME, OHIO.

(a) STUDY.—The Secretary of the Interior (referred to in this section as the ''Secretary''), in consultation with the Secretary of the Army, shall conduct a special resource study of the Colonel Charles Young Home, a National Historic Landmark in Xenia, Ohio (referred to in this section as the ''Home'').

(b) CONTENTS.—In conducting the study under subsection (a), the Secretary shall—

(1) evaluate any architectural and archeological resources of the Home;

(2) determine the suitability and feasibility of designating the Home as a unit of the National Park System;

(3) consider other alternatives for preservation, protection, and interpretation of the Home by Federal, State, or local governmental entities or private and nonprofit organizations, including the use of shared management agreements with the Dayton Aviation Heritage National Historical Park or specific units of that Park, such as the Paul Laurence Dunbar Home;

(4) consult with the Ohio Historical Society, Central State University, Wilberforce University, and other interested Federal, State, or local governmental entities, private and nonprofit organizations, or individuals; and

(5) identify cost estimates for any Federal acquisition, development, interpretation, operation, and maintenance associated with the alternatives considered under the study.

(c) APPLICABLE LAW.—The study required under subsection (a) shall be conducted in accordance with section 8 of Public Law 91–383 (16 U.S.C. 1a–5).

(d) REPORT.—Not later than 3 years after the date on which funds are first made available for the study under subsection (a), the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report that contains—

(1) the results of the study under subsection (a); and

(2) any conclusions and recommendations of the Secretary.

SEC. 305. UNITED STATES CIVIL RIGHTS TRAIL.

(a) STUDY REQUIRED.—The Secretary of the Interior shall conduct a special resource study for the purpose of evaluating a range of alternatives for protecting and interpreting sites associated with the struggle for civil rights in the United States, including alternatives for potential addition of some or all of the sites to the National Trails System.

(b) CONSULTATION.—The Secretary shall conduct the special resource study in consultation with appropriate Federal, State, county, and local governmental entities.

(c) STUDY REQUIREMENTS.—The Secretary shall conduct the study required under subsection (a) in accordance with section 8(c) of Public Law 91–383 (16 U.S.C. 1a–5(c)) and section 5(b) of the National Trails System Act (16 U.S.C. 1244(b)), as appropriate.

(d) STUDY OBJECTIVES.—In conducting the special resource study, the Secretary shall evaluate alternatives for achieving the following objectives:

(1) Identifying the resources and historic themes associated with the movement to secure racial equality in the United States for African Americans that, focusing on the period from 1954 through 1968, challenged the practice of racial segregation in the Nation and achieved equal rights for all American citizens.

(2) Making a review of existing studies and reports, such as the Civil Rights Framework Study, to complement and not duplicate other studies of the historical importance of the civil rights movements that may be underway or undertaken.

(3) Establishing connections with agencies, organizations, and partnerships already engaged in the preservation and interpretation of various trails and sites dealing with the civil rights movement.

(4) Protecting historically significant landscapes, districts, sites, and structures.

(5) Identifying alternatives for preservation and interpretation of the sites by the National Park Service, other Federal, State, or local governmental entities, or private and nonprofit organizations, including the potential inclusion of some or all of the sites in a National Civil Rights Trail.

(6) Identifying cost estimates for any necessary acquisition, development, interpretation, operation, and maintenance associated with the alternatives developed under the special resource study.

(e) REPORT.—Not later than 3 years after the date on which funds are made available to carry out this section, the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report containing the results of the study conducted under subsection (c) and any recommendations of the Secretary with respect to the route.

SEC. 306. CAMP HALE, COLORADO.

(a) DEFINITIONS.—In this section:

(1) CAMP HALE.—The term ''Camp Hale'' means the area comprising approximately 200,000 acres on the White River and San Isabel National Forests in west-central Colorado located within portions of Eagle, Lake, Pitkin, and Summit counties.

(2) SECRETARIES.—The term ''Secretaries'' means the Secretary of the Interior and the Secretary of Agriculture, acting jointly.

(b) STUDY.—The Secretaries shall conduct a study of Camp Hale to determine—

(1) the suitability and feasibility of designating Camp Hale as a unit of the National Park System, in accordance with section 8(c) of Public Law 91–383 (16 U.S.C. 1a–5(c)); or

(2) any other designation or management option that would provide for the protection of resources within Camp Hale, including continued management of Camp Hale by the Forest Service.

(c) REQUIRED ANALYSIS.—The study under subsection (b) shall include an analysis of—

(1) the significance of Camp Hale in relation to national security during World War II and the Cold War, including—

(A) the use of Camp Hale for training of the 10th Mountain Division and other elements of the United States Armed Forces; and

(B) the use of Camp Hale for training by the Central Intelligence Agency of Tibetan refugees seeking to resist the Chinese occupation of Tibet;

(2) opportunities for public enjoyment and recreation at Camp Hale; and

(3) any operational, management, or private property issues relating to Camp Hale.

(d) CONGRESSIONAL INTENT.—It is the intent of Congress that, in conducting the study under subsection (b), the Secretaries not propose any designation that would affect valid existing rights, including—

(1) all interstate water compacts in existence on the date of enactment of this Act (including full development of any apportionment made in accordance with the compacts);

(2) water rights—

(A) decreed at Camp Hale; or

(B) flowing within, below, or through Camp Hale;

(3) water rights in the State of Colorado;

(4) water rights held by the United States; and

(5) the management and operation of any reservoir, including the storage, management, release, or transportation of water.

(e) REPORT.—Not later than 3 years after the date on which funds are made available to carry out this section, the Secretaries shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives—

(1) the study conducted under this section; and

(2) any recommendations of the Secretaries relating to Camp Hale.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

TITLE IV—BLACK REVOLUTIONARY WAR PATRIOTS MEMORIAL

SEC. 401. FINDING.

Congress finds that the contributions of free persons and slaves who fought during the American Revolution were of preeminent historical and lasting significance to the United States, as required by section 8908(b)(1) of title 40, United States Code.

SEC. 402. DEFINITIONS.

In this subtitle:

(1) FEDERAL LAND.—

(A) IN GENERAL.—The term ''Federal land'' means the parcel of land—

(i) identified as ''Area I''; and

(ii) depicted on the map numbered 869/86501B and dated June 24, 2003.

(B) EXCLUSION.—The term ''Federal land'' does not include the Reserve (as defined in section 8902(a) of title 40, United States Code).

(2) MEMORIAL.—The term ''memorial'' means the memorial authorized to be established under section 403(a).

SEC. 403. MEMORIAL AUTHORIZATION.

(a) AUTHORIZATION.—In accordance with subsections (b) and (c), National Mall Liberty Fund D.C. may establish a memorial on Federal land in the District of Columbia to honor the more than 5,000 courageous slaves and free Black persons who served as soldiers and sailors or provided civilian assistance during the American Revolution.

(b) PROHIBITION ON USE OF FEDERAL FUNDS.—National Mall Liberty Fund D.C. may not use Federal funds to establish the memorial.

(c) APPLICABLE LAW.—National Mall Liberty Fund D.C. shall establish the memorial in accordance with chapter 89 of title 40, United States Code.

SEC. 404. REPEAL OF JOINT RESOLUTIONS.

Public Law 99–558 (110 Stat. 3144) and Public Law 100–265 (102 Stat. 39) are repealed.

TITLE V—GENERAL AUTHORITIES

Subtitle A—Revolutionary War and War of 1812 American Battlefield Funding

SEC. 501. REVOLUTIONARY WAR AND WAR OF 1812 AMERICAN BATTLEFIELD PROTECTION.

Section 7301(c) of the Omnibus Public Land Management Act of 2009 (Public Law 111–11) is amended as follows:

(1) In paragraph (1)—

(A) by striking subparagraph (A) and inserting the following:

''(A) BATTLEFIELD REPORT.—The term ''battlefield report'' means, collectively—

''(i) the report entitled 'Report on the Nation's Civil War Battlefields', prepared by the Civil War Sites Advisory Commission, and dated July 1993; and

''(ii) the report entitled 'Report to Congress on the Historic Preservation of Revolutionary War and War of 1812 Sites in the United States', prepared by the National Park Service, and dated September 2007.''; and

(B) in subpagraph (C)(ii), by striking ''Battlefield Report'' and inserting ''battlefield report''.

(2) In paragraph (2), by inserting ''eligible sites or'' after ''acquiring''.

(3) In paragraph (3), by inserting ''an eligible site or'' after ''acquire''.

(4) In paragraph (4), by inserting ''an eligible site or'' after ''acquiring''.

(5) In paragraph (5), by striking ''An'' and inserting ''An eligible site or an''.

(6) By redesignating paragraph (6) as paragraph (8).

(7) By inserting after paragraph (5) the following new paragraphs:

''(6) WILLING SELLERS.—Acquisition of land or interests in land under this subsection shall be from willing sellers only.

''(7) REPORT.—Not later than 5 years after the date of the enactment of this subsection, the Secretary shall submit to Congress a report on the activities carried out under this subsection, including a description of—

''(A) preservation activities carried out at the battlefields and associated sites identified in the battlefield report during the period between publication of the battlefield report and the report required under this paragraph;

''(B) changes in the condition of the battlefields and associated sites during that period; and

''(C) any other relevant developments relating to the battlefields and associated sites during that period.''.

(8) By striking paragraph (8) (as redesignated by paragraph (6)) and inserting the following:

''(8) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to provide grants under this subsection for each of fiscal years 2010 through 2020—

''(A) $10,000,000 for the protection of Civil War battlefields; and

''(B) $10,000,000 for the protection of Revolutionary War and War of 1812 battlefields.''.

Subtitle B—National Park Service Miscellaneous Authorizations

SEC. 511. NATIONAL PARK SYSTEM AUTHORITIES.

(a) NATIONAL PARK SYSTEM ADVISORY BOARD.—Section 3(f) of the Act entitled, ''An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes'', approved August 21, 1935 (16 U.S.C. 463(f)), is amended in the first sentence by striking ''2010'' and inserting ''2020''.

(b) NATIONAL PARK SERVICE CONCESSIONS MANAGEMENT ADVISORY BOARD.—Section 409(d) of the National Park Service Concessions Management Improvement Act of 1998 (Public Law 105–391) is amended by striking ''2009'' and inserting ''2019''.

(c) NATIONAL PARK SYSTEM UNIFORM PENALTIES.—

(1) FINES AND IMPRISONMENT.—The first section of the Act entitled, ''An Act to provide for the protection of national military

parks, national parks, battlefield sites, national monuments, and miscellaneous memorials under the control of the War Department'', approved March 2, 1933 (47 Stat. 1420, ch. 180), is amended by striking ''such fine and imprisonment.'' and inserting ''such fine and imprisonment; except if the violation occurs within a park, site, monument, or memorial that is part of the National Park System, where violations shall be subject to the penalty provision set forth in section 3 of the Act of August 25, 1916 (16 U.S.C. 3; commonly known as the 'National Park Service Organic Act') and section 3571 of title 18, United States Code.''.

(2) COST OF PROCEEDINGS.—Section 2(k) of the Act entitled, ''An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes'', approved August 21, 1935 (16 U.S.C. 462(k)), is amended by striking ''cost of the proceedings.'' and inserting ''cost of the proceedings; except if the violation occurs within an area that is part of the National Park System, where violations shall be subject to the penalty provision set forth in section 3 of the Act of August 25, 1916 (16 U.S.C. 3; commonly known as the 'National Park Service Organic Act'), and section 3571 of title 18, United States Code.''.

(d) VOLUNTEERS IN THE PARKS.—Section 4 of the Volunteers in the Parks Act of 1969 (16 U.S.C. 18j) is amended by striking ''$3,500,000'' and inserting ''$10,000,000''.

SEC. 512. PEARL HARBOR TICKETING.

(a) DEFINITIONS.—In this section:

(1) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(2) PEARL HARBOR HISTORIC SITE.—The term ''Pearl Harbor historic site'' means a historic attraction within the Pearl Harbor Naval Complex, including the USS Bowfin Submarine Museum and Park, the Battleship Missouri Memorial, the Pacific Aviation Museum—Pearl Harbor, and any other historic attraction that the Secretary identifies as a Pearl Harbor historic site and that is not administered or managed by the Secretary.

(3) VISITOR CENTER.—The term ''visitor center'' means the visitor center located within the Pearl Harbor Naval Complex on lands that are within the World War II Valor in the Pacific National Monument and managed by the Secretary through the National Park Service.

(b) FACILITATION OF ADMISSION TO HISTORIC ATTRACTIONS WITHIN PEARL HARBOR NAVAL COMPLEX.—

(1) IN GENERAL.—The Secretary, in managing the World War II Valor in the Pacific National Monument, may enter into an agreement with the nonprofit organizations or other legally recognized entities that are authorized to administer or manage a Pearl Harbor historic site—

(A) to allow visitors to a Pearl Harbor historic site to gain access to the site by passing through security screening at the Visitor Center; and

(B) to allow the sale of tickets to a Pearl Harbor historic site within the Visitor Center by employees of the National Park Service or by organizations that administer or manage a Pearl Harbor historic site.

(2) TERMS AND CONDITIONS.—In any agreement entered into pursuant to this section, the Secretary—

(A) shall require the organization administering or managing a Pearl Harbor historic site to pay to the Secretary a reasonable fee to recover administrative costs associated with the use of the Visitor Center for public access and ticket sales, the proceeds of which shall remain available, without further appropriation, for use by the National Park Service at the World War II Valor in the Pacific National Monument;

(B) shall ensure the limited liability of the United States arising from the admission of the public through the Visitor Center to a Pearl Harbor historic site and the sale or issuance of any tickets to the site; and

(C) may include any other terms and conditions the Secretary deems appropriate.

(3) LIMITATION OF AUTHORITY.—Under this section, the Secretary shall have no authority—

(A) to regulate or approve the rates for admission to an attraction within the Pearl Harbor historic site;

(B) to regulate or manage any visitor services of any historic sites within the Pearl Harbor Naval Complex other than at those sites managed by the National Park Service as part of World War II Valor in the Pacific National Monument; or

(C) to charge an entrance fee for admission to the World War II Valor in the Pacific National Monument.

(c) PROTECTION OF RESOURCES.—Nothing in this section authorizes the Secretary or any organization that administers or manages a Pearl Harbor historic site to take any action in derogation of the preservation and protection of the values and resources of the World War II Valor in the Pacific National Monument.

SEC. 513. CHANGES TO NATIONAL PARK UNITS.

(a) GEORGE WASHINGTON MEMORIAL PARKWAY.—

(1) PURPOSE.—The purpose of this subsection is to authorize, direct, facilitate, and expedite the transfer of administrative jurisdiction of certain Federal land in accordance with the terms and conditions of this subsection.

(2) DEFINITIONS.—In this subsection:

(A) FARM.—The term ''Farm'' means the Claude Moore Colonial Farm.

(B) MAP.—The term ''Map'' means the map titled ''GWMP—Claude Moore Proposed Boundary Adjustment'', numbered 850/82003, and dated April 2004. The map shall be available for public inspection in the appropriate offices of the National Park Service, Department of the Interior.

(C) RESEARCH CENTER.—The term ''Research Center'' means the Federal Highway Administration's Turner-Fairbank Highway Research Center.

(D) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(3) ADMINISTRATIVE JURISDICTION TRANSFER.—

(A) TRANSFER OF JURISDICTION.—

(i) IN GENERAL.—The Secretary and the Secretary of Transportation are authorized to transfer administrative jurisdiction for approximately 0.342 acre of land under the jurisdiction of the Department of the Interior within the boundary of the George Washington Memorial Parkway, generally depicted as ''B'' on the Map, for approximately 0.479 acre within the boundary of the Research Center land under the jurisdiction of the Department of Transportation adjacent to the boundary of the George Washington Memorial Parkway, generally depicted as ''A'' on the Map.

(ii) USE RESTRICTION.—The Secretary shall restrict the use of 0.139 acre of land within the boundary of the George Washington Memorial Parkway immediately adjacent to part of the north perimeter fence of the Research Center, generally depicted as ''C'' on the Map, by prohibiting the storage, construction, or installation of any item that may obstruct the view from the Research Center into the George Washington Memorial Parkway.

(B) REIMBURSEMENT OR CONSIDERATION.—The transfer of administrative jurisdiction under this section shall occur without reimbursement or consideration.

(C) COMPLIANCE WITH AGREEMENT.—

(i) AGREEMENT.—The National Park Service and the Federal Highway Administration shall comply with all terms and conditions of the Agreement entered into by the parties on September 11, 2002, regarding the transfer of administrative jurisdiction, management, and maintenance of the lands discussed in the Agreement.

(ii) ACCESS TO LAND.—The Secretary shall allow the Research Center access to the land the Secretary restricts under subparagraph (A)(ii) for purposes of maintenance in accordance with National Park Service standards, which includes grass mowing and weed control, tree maintenance, fence maintenance, and visual appearance. No tree 6 inches or more in diameter shall be pruned or removed without the advance written permission of the Secretary. Any pesticide use must be approved in writing by the Secretary prior to application of the pesticide.

(4) MANAGEMENT OF TRANSFERRED LANDS.—

(A) INTERIOR LAND.—The land transferred to the Secretary under paragraph (3)(A) shall be included in the boundaries of the George Washington Memorial Parkway and shall be administered by the National Park Service as part of the parkway subject to applicable laws and regulations.

(B) TRANSPORTATION LAND.—The land transferred to the Secretary of Transportation under paragraph (3)(A) shall be included in the boundary of the Research Center and shall be removed from the boundary of the parkway.

(C) RESTRICTED-USE LAND.—The land the Secretary has designated for restricted use under paragraph (3)(A) shall be maintained by the Research Center.

(b) DISTRICT OF COLUMBIA SNOW REMOVAL.—Section 3 of the Act entitled, ''An Act Providing for the removal of snow and ice from the paved sidewalks of the District of Columbia'', approved September 16, 1922 (Sec. 9–603, D.C. Official Code), is amended to read as follows:

''SEC. 3. (a) It shall be the duty of a Federal agency to remove, or cause to be removed, snow, sleet, or ice from paved sidewalks and crosswalks within the fire limits of the District of Columbia that are—

''(1) in front of or adjacent to buildings owned by the United States and under such Federal agency's jurisdiction; or

''(2) public thoroughfares in front of, around, or through public squares, reservations, or open spaces and that are owned by the United States and under such Federal agency's jurisdiction.

''(b) The snow, sleet, or ice removal required by subsection (a) shall occur within a reasonable time period after snow or sleet ceases to fall or after ice has accumulated. In the event that snow, sleet, or ice has hardened and cannot be removed, such Federal agency shall—

''(1) make the paved sidewalks and crosswalks under its jurisdiction described in subsection (a) reasonably safe for travel by the application of sand, ashes, salt, or other acceptable materials; and

''(2) as soon as practicable, thoroughly remove the snow, sleet, or ice.

''(c)(1) The duty of a Federal agency described in subsections (a) and (b) may be delegated to another governmental or nongovernmental entity through a lease, contract, or other comparable arrangement.

''(2) If two or more Federal agencies have overlapping responsibility for the same sidewalk or crosswalk they may enter into an arrangement assigning responsibility.''.

(c) MARTIN LUTHER KING, JR. NATIONAL HISTORICAL PARK.—

(1) AMENDMENTS.—The Act entitled ''An Act to establish the Martin Luther King, Junior, National Historic Site in the State of

Georgia, and for other purposes'', approved October 10, 1980 (Public Law 96–428; 94 Stat. 1839) is amended—

(A) in the first section, by striking ''the map entitled 'Martin Luther King, Junior, National Historic Site Boundary Map', number 489/80,013B, and dated September 1992'' and inserting ''the map titled 'Martin Luther King, Jr. National Historical Park', numbered 489/80,032, and dated April 2009'';

(B) by striking ''Martin Luther King, Junior, National Historic Site'' each place it appears and inserting ''Martin Luther King, Jr. National Historical Park''; and

(C) by striking ''historic site'' each place it appears and inserting ''historical park''.

(2) REFERENCES.—Any reference in any law (other than this Act), map, regulation, document, record, or other official paper of the United States to the ''Martin Luther King, Junior, National Historic Site'' shall be considered to be a reference to the ''Martin Luther King, Jr. National Historical Park''.

(d) LAVA BEDS NATIONAL MONUMENT WILDERNESS BOUNDARY ADJUSTMENT.—The first section of the Act of October 13, 1972 (Public Law 92–493; 16 U.S.C. 1132 note), is amended in the first sentence—

(1) by striking ''That, in'' and inserting the following:

''SECTION 1. In''; and

(2) by striking ''ten thousand acres'' and all that follows through the end of the sentence and inserting ''10,431 acres, as depicted within the proposed wilderness boundary on the map titled 'Lava Beds National Monument, Proposed Wilderness Boundary Adjustment', numbered 147/80,015, and dated September 2005, and those lands within the area generally known as the 'Schonchin Lava Flow', comprising approximately 18,029 acres, as depicted within the proposed wilderness boundary on the map, are designated as wilderness.''.

SEC. 514. TECHNICAL CORRECTIONS.

(a) BALTIMORE NATIONAL HERITAGE AREA.—The Omnibus Public Land Management Act of 2009 (Public Law 111–11) is amended—

(1) in sections 8005(b)(3) and 8005(b)(4) by striking ''Baltimore Heritage Area Association'' and inserting ''Baltimore City Heritage Area Association''; and

(2) in section 8005(i) by striking ''EFFECTIVENESS'' and inserting ''FINANCIAL ASSISTANCE''.

(b) MUSCLE SHOALS NATIONAL HERITAGE AREA.—Section 8009(j) of the Omnibus Public Land Management Act of 2009 is amended by striking ''EFFECTIVENESS'' and inserting ''FINANCIAL ASSISTANCE''.

(c) SNAKE RIVER HEADWATERS.—Section 5002(c)(1) of the Omnibus Public Land Management Act of 2009 is amended by striking ''paragraph (205) of section 3(a)'' each place it appears and inserting ''paragraph (206) of section 3(a)''.

(d) TAUNTON RIVER.—Section 5003(b) of the Omnibus Public Land Management Act of 2009 is amended by striking ''section 3(a)(206)'' each place it appears and inserting ''section 3(a)(207)''.

(e) CUMBERLAND ISLAND NATIONAL SEASHORE.—Section 6(b) of the Act titled ''An Act to establish the Cumberland Island National Seashore in the State of Georgia, and for other purposes'' (Public Law 92–536) is amended by striking ''physiographic conditions not prevailing'' and inserting ''physiographic conditions now prevailing''.

(f) NIAGARA FALLS NATIONAL HERITAGE AREA.—Section 427(k) of the Consolidated Natural Resources Act of 2008 (Public Law 110–229) is amended by striking ''Except as provided for the leasing of administrative facilities under subsection (g)(1), the'' and inserting ''The''.

DIVISION B—NATIONAL WILDERNESS PRESERVATION SYSTEM

TITLE XX—ORGAN MOUNTAINS-DESERT PEAKS WILDERNESS

SEC. 2001. DEFINITIONS.

In this title:

(1) CONSERVATION AREA.—The term ''Conservation Area'' means each of the Organ Mountains National Conservation Area and the Desert Peaks National Conservation Area established by section 2003(a).

(2) MANAGEMENT PLAN.—The term ''management plan'' means the management plan for the Conservation Areas developed under section 2003(d).

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(4) STATE.—The term ''State'' means the State of New Mexico.

SEC. 2002. DESIGNATION OF WILDERNESS AREAS.

(a) IN GENERAL.—In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), the following areas in the State are designated as wilderness and as components of the National Wilderness Preservation System:

(1) ADEN LAVA FLOW WILDERNESS.—Certain land administered by the Bureau of Land Management in Doña Ana County comprising approximately 27,650 acres, as generally depicted on the map entitled ''Potrillo Mountains Complex'' and dated May 18, 2010, which shall be known as the ''Aden Lava Flow Wilderness''.

(2) BROAD CANYON WILDERNESS.—Certain land administered by the Bureau of Land Management in Doña Ana County comprising approximately 13,900 acres, as generally depicted on the map entitled ''Desert Peaks National Conservation Area'' and dated May 18, 2010, which shall be known as the ''Broad Canyon Wilderness''.

(3) CINDER CONE WILDERNESS.—Certain land administered by the Bureau of Land Management in Doña Ana County comprising approximately 16,950 acres, as generally depicted on the map entitled ''Potrillo Mountains Complex'' and dated May 18, 2010, which shall be known as the ''Cinder Cone Wilderness''.

(4) ORGAN MOUNTAINS WILDERNESS.—Certain land administered by the Bureau of Land Management in Doña Ana County comprising approximately 19,400 acres, as generally depicted on the map entitled ''Organ Mountains National Conservation Area'' and dated June 22, 2010, which shall be known as the ''Organ Mountains Wilderness''.

(5) POTRILLO MOUNTAINS WILDERNESS.—Certain land administered by the Bureau of Land Management in Doña Ana and Luna counties comprising approximately 125,850 acres, as generally depicted on the map entitled ''Potrillo Mountains Complex'' and dated May 18, 2010, which shall be known as the ''Potrillo Mountains Wilderness''.

(6) ROBLEDO MOUNTAINS WILDERNESS.—Certain land administered by the Bureau of Land Management in Doña Ana County comprising approximately 16,950 acres, as generally depicted on the map entitled ''Desert Peaks National Conservation Area'' and dated May 18, 2010, which shall be known as the ''Robledo Mountains Wilderness''.

(7) SIERRA DE LAS UVAS WILDERNESS.—Certain land administered by the Bureau of Land Management in Doña Ana County comprising approximately 11,100 acres, as generally depicted on the map entitled ''Desert Peaks National Conservation Area'' and dated May 18, 2010, which shall be known as the ''Sierra de las Uvas Wilderness''.

(8) WHITETHORN WILDERNESS.—Certain land administered by the Bureau of Land Management in Doña Ana and Luna counties comprising approximately 9,600 acres, as generally depicted on the map entitled ''Potrillo Mountains Complex'' and dated May 18, 2010, which shall be known as the ''Whitethorn Wilderness''.

(b) MANAGEMENT.—Subject to valid existing rights, the wilderness areas designated by subsection (a) shall be administered by the Secretary in accordance with this title and the Wilderness Act (16 U.S.C. 1131 et seq.) except that—

(1) any reference in the Wilderness Act to the effective date of that Act shall be considered to be a reference to the date of enactment of this Act; and

(2) any reference in the Wilderness Act to the Secretary of Agriculture shall be considered to be a reference to the Secretary of the Interior.

(c) INCORPORATION OF ACQUIRED LAND AND INTERESTS IN LAND.—Any land or interest in land that is within the boundary of a wilderness area designated by subsection (a) that is acquired by the United States shall—

(1) become part of the wilderness area within the boundaries of which the land is located; and

(2) be managed in accordance with—

(A) the Wilderness Act (16 U.S.C. 1131 et seq.);

(B) this title; and

(C) any other applicable laws.

(d) GRAZING.—Grazing of livestock in the wilderness areas designated by subsection (a), where established before the date of enactment of this Act, shall be administered in accordance with—

(1) section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)); and

(2) the guidelines set forth in Appendix A of the Report of the Committee on Interior and Insular Affairs to accompany H.R. 2570 of the 101st Congress (H. Rept. 101–405).

(e) MILITARY OVERFLIGHTS.—Nothing in this section restricts or precludes—

(1) low-level overflights of military aircraft over the wilderness areas designated by subsection (a), including military overflights that can be seen or heard within the wilderness areas;

(2) the designation of new units of special airspace over the wilderness areas or wilderness additions designated by this title; or

(3) the use or establishment of military flight training routes over wilderness areas or wilderness additions designated by this title.

(f) BUFFER ZONES.—

(1) IN GENERAL.—Nothing in this section creates a protective perimeter or buffer zone around any wilderness area designated by subsection (a).

(2) ACTIVITIES OUTSIDE WILDERNESS AREAS.—The fact that an activity or use on land outside any wilderness area designated by subsection (a) can be seen or heard within the wilderness area shall not preclude the activity or use outside the boundary of the wilderness area.

(g) PERMIT AUTHORIZATION.—The Secretary may continue to authorize the competitive running event permitted from 1970 through 2010 in the vicinity of the boundaries of the Organ Mountains Wilderness designated by subsection (a)(4) in a manner compatible with the preservation of the area as wilderness.

(h) POTENTIAL WILDERNESS AREA.—

(1) ROBLEDO MOUNTAINS POTENTIAL WILDERNESS AREA.—

(A) IN GENERAL.—Certain land administered by the Bureau of Land Management, comprising approximately 100 acres as generally depicted as ''Potential Wilderness'' on the map entitled ''Desert Peaks National Conservation Area'' and dated May 18, 2010, is designated as a potential wilderness area.

(B) USES.—The Secretary shall permit only such uses on the land described in subparagraph (A) that were permitted on the date of enactment of this Act.

(C) DESIGNATION AS WILDERNESS.—

(i) IN GENERAL.—On the date on which the Secretary publishes in the Federal Register the notice described in clause (ii), the potential wilderness area designated under subparagraph (A) shall be—

(I) designated as wilderness and as a component of the National Wilderness Preservation System; and

(II) incorporated into the Robledo Mountains Wilderness designated by subsection (a)(6).

(ii) NOTICE.—The notice referred to in clause (i) is notice that—

(I) the communications site within the potential wilderness area designated under subparagraph (A) is no longer used;

(II) the associated right-of-way is relinquished or not renewed; and

(III) the conditions in the potential wilderness area designated by subparagraph (A) are compatible with the Wilderness Act (16 U.S.C. 1131 et seq.).

(i) RELEASE OF WILDERNESS STUDY AREAS.—Congress finds that, for purposes of section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)), the public land in Doña Ana County administered by the Bureau of Land Management not designated as wilderness by subsection (a)—

(1) has been adequately studied for wilderness designation;

(2) is no longer subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)); and

(3) shall be managed in accordance with—

(A) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.);

(B) this title; and

(C) any other applicable laws.

SEC. 2003. ESTABLISHMENT OF NATIONAL CONSERVATION AREAS.

(a) ESTABLISHMENT.—The following areas in the State are established as National Conservation Areas:

(1) ORGAN MOUNTAINS NATIONAL CONSERVATION AREA.—Certain land administered by the Bureau of Land Management in Doña Ana County comprising approximately 84,950 acres, as generally depicted on the map entitled ''Organ Mountains National Conservation Area'' and dated June 22, 2010, which shall be known as the ''Organ Mountains National Conservation Area''.

(2) DESERT PEAKS NATIONAL CONSERVATION AREA.—Certain land administered by the Bureau of Land Management in Doña Ana County comprising approximately 75,550 acres, as generally depicted on the map entitled ''Desert Peaks National Conservation Area'' and dated May 18, 2010, which shall be known as the ''Desert Peaks National Conservation Area''.

(b) PURPOSES.—The purposes of the Conservation Areas are to conserve, protect, and enhance for the benefit and enjoyment of present and future generations the cultural, archaeological, natural, geological, historical, ecological, watershed, wildlife, educational, recreational, and scenic resources of the Conservation Areas.

(c) MANAGEMENT.—

(1) IN GENERAL.—The Secretary shall manage the Conservation Areas—

(A) in a manner that conserves, protects, and enhances the resources of the Conservation Areas; and

(B) in accordance with—

(i) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.);

(ii) this title; and

(iii) any other applicable laws.

(2) USES.—

(A) IN GENERAL.—The Secretary shall allow only such uses of the Conservation Areas that the Secretary determines would further the purposes described in subsection (b).

(B) USE OF MOTORIZED VEHICLES.—

(i) IN GENERAL.—Except as needed for administrative purposes or to respond to an emergency, the use of motorized vehicles in the Conservation Areas shall be permitted only on roads designated for use by motorized vehicles in the management plan.

(ii) NEW ROADS.—No additional road shall be built within the Conservation Areas after the date of enactment of this Act unless the road is necessary for public safety or natural resource protection.

(C) GRAZING.—The Secretary shall permit grazing within the Conservation Areas, where established before the date of enactment of this Act—

(i) subject to all applicable laws (including regulations) and Executive orders; and

(ii) consistent with the purposes described in subsection (b).

(D) UTILITY RIGHT-OF-WAY UPGRADES.—Nothing in this section precludes the Secretary from renewing or authorizing the upgrading (including widening) of a utility right-of-way in existence as of the date of enactment of this Act through the Organ Mountains National Conservation Area—

(i) in accordance with—

(I) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(II) any other applicable law; and

(ii) subject to such terms and conditions as the Secretary determines to be appropriate.

(d) MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Secretary shall develop a management plan for each of the Conservation Areas.

(2) CONSULTATION.—The management plans shall be developed in consultation with—

(A) interested Federal agencies;

(B) State, tribal, and local governments; and

(C) the public.

(3) CONSIDERATIONS.—In preparing and implementing the management plans, the Secretary shall consider the recommendations of Indian tribes and pueblos on methods for providing access to, and protection for, traditional cultural and religious sites in the Conservation Areas.

(e) INCORPORATION OF ACQUIRED LAND AND INTERESTS IN LAND.—Any land or interest in land that is within the boundary of a Conservation Area designated by subsection (a) that is acquired by the United States shall—

(1) become part of the Conservation Area within the boundaries of which the land is located; and

(2) be managed in accordance with—

(A) this title; and

(B) any other applicable laws.

(f) TRANSFER OF ADMINISTRATIVE JURISDICTION.—On the date of enactment of this Act, administrative jurisdiction over the approximately 2,050 acres of land generally depicted as ''Transfer from DOD to BLM'' on the map entitled ''Organ Mountains National Conservation Area'' and dated June 22, 2010, shall—

(1) be transferred from the Secretary of Defense to the Secretary;

(2) become part of the Organ Mountains National Conservation Area; and

(3) be managed in accordance with—

(A) this title; and

(B) any other applicable laws.

SEC. 2004. GENERAL PROVISIONS.

(a) MAPS AND LEGAL DESCRIPTIONS.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall file maps and legal descriptions of the Conservation Areas and the wilderness areas designated by this title with—

(A) the Committee on Energy and Natural Resources of the Senate; and

(B) the Committee on Natural Resources of the House of Representatives.

(2) FORCE OF LAW.—The maps and legal descriptions filed under paragraph (1) shall have the same force and effect as if included in this title, except that the Secretary may correct errors in the maps and legal descriptions.

(3) PUBLIC AVAILABILITY.—The maps and legal descriptions filed under paragraph (1) shall be on file and available for public inspection in the appropriate offices of the Bureau of Land Management.

(b) NATIONAL LANDSCAPE CONSERVATION SYSTEM.—The Conservation Areas and the wilderness areas designated by this title shall be administered as components of the National Landscape Conservation System.

(c) FISH AND WILDLIFE.—Nothing in this title affects the jurisdiction of the State with respect to fish and wildlife located on public land in the State, except that the Secretary, after consultation with the New Mexico Department of Game and Fish, may designate zones where, and establish periods during which, hunting, or fishing shall not be allowed for reasons of public safety, administration, the protection for nongame species and their habitats, or public use and enjoyment.

(d) WITHDRAWALS.—

(1) IN GENERAL.—Subject to valid existing rights, the Federal land within the Conservation Areas, the wilderness areas designated by this title, and any land or interest in land that is acquired by the United States in the Conservation Areas or wilderness areas after the date of enactment of this Act is withdrawn from—

(A) entry, appropriation, or disposal under the public land laws;

(B) location, entry, and patent under the mining laws; and

(C) operation of the mineral leasing, mineral materials, and geothermal leasing laws.

(2) PARCEL A.—The approximately 1,300 acres of land generally depicted as ''Parcel A'' on the map entitled ''Organ Mountains National Conservation Area'' and dated June 22, 2010, is withdrawn in accordance with paragraph (1), except that the land is not withdrawn from disposal under the Act of June 14, 1926 (commonly known as the ''Recreation and Public Purposes Act'') (43 U.S.C. 869 et seq.).

(3) PARCEL B.—The approximately 6,500 acres of land generally depicted as ''Parcel B'' on the map entitled ''Organ Mountains National Conservation Area'' and dated June 22, 2010, is withdrawn in accordance with paragraph (1), except that the land is not withdrawn for purposes of the issuance of oil and gas pipeline rights-of-way.

SEC. 2005. PREHISTORIC TRACKWAYS NATIONAL MONUMENT BOUNDARY ADJUSTMENT.

Section 2103 of the Omnibus Public Land Management Act of 2009 (16 U.S.C. 431 note; Public Law 111–11; 123 Stat. 1097) is amended by striking subsection (b) and inserting the following:

''(b) DESCRIPTION OF LAND.—The Monument shall consist of approximately 5,750 acres of public land in Donã Ana County, New Mexico, as generally depicted on the map entitled 'Desert Peaks National Conservation Area' and dated May 18, 2010.''.

SEC. 2006. BORDER SECURITY.

(a) IN GENERAL.—Nothing in this title—

(1) prevents the Secretary of Homeland Security from undertaking law enforcement and border security activities, in accordance with section 4(c) of the Wilderness Act (16 U.S.C. 1133(c)), within the areas designated as wilderness by this title, including the ability to use motorized access within a wilderness area while in pursuit of a suspect;

(2) affects the 2006 Memorandum of Understanding among the Department of Homeland Security, the Department of the Interior, and the Department of Agriculture regarding cooperative national security and counterterrorism efforts on Federal land along the borders of the United States; or

(3) prevents the Secretary of Homeland Security from conducting any low-level overflights over the wilderness areas designated by this title that may be necessary for law enforcement and border security purposes.

(b) RESTRICTED USE AREA.—

(1) WITHDRAWAL.—The area identified as ''Restricted Use Area'' on the map entitled ''Potrillo Mountains Complex'' and dated May 18, 2010, is withdrawn in accordance with section 2004(d)(1).

(2) ADMINISTRATION.—Except as provided in paragraphs (3) and (4), the Secretary shall administer the area described in paragraph (1) in a manner that, to the maximum extent practicable, protects the wilderness character of the area.

(3) USE OF MOTOR VEHICLES.—The use of motor vehicles, motorized equipment, and mechanical transport shall be prohibited in the area described in paragraph (1), except as necessary for—

(A) the administration of the area (including the conduct of law enforcement and border security activities in the area); or

(B) grazing uses by authorized permittees.

(4) EFFECT OF SUBSECTION.—Nothing in this subsection precludes the Secretary from allowing within the area described in paragraph (1) the installation and maintenance of communication or surveillance infrastructure necessary for law enforcement or border security activities.

(c) RESTRICTED ROUTE.—The route excluded from the Potrillo Mountains Wilderness identified as ''Restricted–Administrative Access'' on the map entitled ''Potrillo Mountains Complex'' and dated May 18, 2010, shall be—

(1) closed to public access; but

(2) available for administrative and law enforcement uses, including border security activities.

SEC. 2007. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title.

TITLE XXI—ALPINE LAKES WILDERNESS ADDITIONS

SEC. 2101. EXPANSION OF ALPINE LAKES WILDERNESS.

(a) IN GENERAL.—There is designated as wilderness and as a component of the National Wilderness Preservation System certain Federal land in the Mount Baker-Snoqualmie National Forest in the State of Washington comprising approximately 22,173 acres that is within the Proposed Alpine Lakes Wilderness Additions Boundary, as generally depicted on the map entitled ''Proposed Alpine Lakes Wilderness Additions'' and dated December 3, 2009, which is incorporated in and shall be considered to be a part of the Alpine Lakes Wilderness.

(b) ADMINISTRATION.—

(1) MANAGEMENT.—Subject to valid existing rights, the land designated as wilderness by subsection (a) shall be administered by the Secretary of Agriculture (referred to in this section as the ''Secretary''), in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), except that any reference in that Act to the effective date of that Act shall be considered to be a reference to the date of enactment of this Act.

(2) MAP AND DESCRIPTION.—

(A) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall file a map and a legal description of the land designated as wilderness by subsection (a) with—

(i) the Committee on Natural Resources of the House of Representatives; and

(ii) the Committee on Energy and Natural Resources of the Senate.

(B) FORCE OF LAW.—A map and legal description filed under subparagraph (A) shall have the same force and effect as if included in this Act, except that the Secretary may correct minor errors in the map and legal description.

(C) PUBLIC AVAILABILITY.—The map and legal description filed under subparagraph (A) shall be filed and made available for public inspection in the appropriate office of the Forest Service.

(c) INCORPORATION OF ACQUIRED LAND AND INTERESTS IN LAND.—Any land or interests in land within the Proposed Alpine Lakes Wilderness Additions Boundary, as generally depicted on the map entitled ''Proposed Alpine Lakes Wilderness Additions'' and dated December 3, 2009, that is acquired by the United States shall—

(1) become part of the wilderness area; and

(2) be managed in accordance with subsection (b)(1).

SEC. 2102. WILD AND SCENIC RIVER DESIGNATIONS.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) (as amended by section 205(a)) is amended by adding at the end the following:

''(209) MIDDLE FORK SNOQUALMIE, WASHINGTON.—The 27.4-mile segment from the headwaters of the Middle Fork Snoqualmie River near La Bohn Gap in NE ¼ sec. 20, T. 24 N., R. 13 E., to the northern boundary of sec. 11, T. 23 N., R. 9 E., to be administered by the Secretary of Agriculture in the following classifications:

''(A) The approximately 6.4-mile segment from the headwaters of the Middle Fork Snoqualmie River near La Bohn Gap in NE ¼ sec. 20, T. 24 N., R. 13 E., to the west section line of sec. 3, T. 23 N., R. 12 E., as a wild river.

''(B) The approximately 21-mile segment from the west section line of sec. 3, T. 23 N., R. 12 E., to the northern boundary of sec. 11, T. 23 N., R. 9 E., as a scenic river.

''(210) PRATT RIVER, WASHINGTON.—The entirety of the Pratt River in the State of Washington, located in the Mount Baker-Snoqualmie National Forest, to be administered by the Secretary of Agriculture as a wild river.''.

TITLE XXII—DEVIL'S STAIRCASE WILDERNESS

SEC. 2201. DEFINITIONS.

In this title:

(1) MAP.—The term ''map'' means the map entitled ''Devil's Staircase Wilderness Proposal'' and dated June 15, 2010.

(2) SECRETARY.—The term ''Secretary'' means—

(A) with respect to land under the jurisdiction of the Secretary of Agriculture, the Secretary of Agriculture; and

(B) with respect to land under the jurisdiction of the Secretary of the Interior, the Secretary of the Interior.

(3) STATE.—The term ''State'' means the State of Oregon.

(4) WILDERNESS.—The term ''Wilderness'' means the Devil's Staircase Wilderness designated by section 2202(a).

SEC. 2202. DEVIL'S STAIRCASE WILDERNESS, OREGON.

(a) DESIGNATION.—In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), the approximately 30,540 acres of Forest Service land and Bureau of Land Management land in the State, as generally depicted on the map, is designated as wilderness and as a component of the National Wilderness Preservation System, to be known as the ''Devil's Staircase Wilderness''.

(b) MAP; LEGAL DESCRIPTION.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall prepare a map and legal description of the Wilderness.

(2) FORCE OF LAW.—The map and legal description prepared under paragraph (1) shall have the same force and effect as if included in this title, except that the Secretary may correct clerical and typographical errors in the map and legal description.

(3) AVAILABILITY.—The map and legal description prepared under paragraph (1) shall be on file and available for public inspection in the appropriate offices of the Forest Service and Bureau of Land Management.

(c) ADMINISTRATION.—Subject to valid existing rights, the area designated as wilderness by this section shall be administered by the Secretary in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), except that—

(1) any reference in that Act to the effective date shall be considered to be a reference to the date of enactment of this Act; and

(2) any reference in that Act to the Secretary of Agriculture shall be considered to be a reference to the Secretary that has jurisdiction over the land within the Wilderness.

(d) FISH AND WILDLIFE.—Nothing in this section affects the jurisdiction or responsibilities of the State with respect to fish and wildlife in the State.

(e) ADJACENT MANAGEMENT.—

(1) IN GENERAL.—Nothing in this section creates any protective perimeter or buffer zone around the Wilderness.

(2) ACTIVITIES OUTSIDE WILDERNESS.—The fact that a nonwilderness activity or use on land outside the Wilderness can be seen or heard within the Wilderness shall not preclude the activity or use outside the boundary of the Wilderness.

(f) PROTECTION OF TRIBAL RIGHTS.—Nothing in this section diminishes any treaty rights of an Indian tribe.

(g) TRANSFER OF ADMINISTRATIVE JURISDICTION.—

(1) IN GENERAL.—Administrative jurisdiction over the approximately 49 acres of Bureau of Land Management land north of the Umpqua River in sec. 32, T. 21 S., R. 11 W, is transferred from the Bureau of Land Management to the Forest Service.

(2) ADMINISTRATION.—The Secretary shall administer the land transferred by paragraph (1) in accordance with—

(A) the Act of March 1, 1911 (commonly known as the ''Weeks Law'') (16 U.S.C. 480 et seq.); and

(B) any laws (including regulations) applicable to the National Forest System.

SEC. 2203. WILD AND SCENIC RIVER DESIGNATIONS, WASSON CREEK AND FRANKLIN CREEK, OREGON.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) (as amended by section 2102) is amended by adding at the end the following:

''(211) FRANKLIN CREEK, OREGON.—The 4.5-mile segment from its headwaters to the line of angle points within sec. 8, T. 22 S., R. 10 W., shown on the survey recorded in the Official Records of Douglas County, Oregon, as M64-62, to be administered by the Secretary of Agriculture as a wild river.

''(212) WASSON CREEK, OREGON.—The 10.1-mile segment in the following classes:

''(A) The 4.2-mile segment from the eastern boundary of sec. 17, T. 21 S., R. 9 W., downstream to the western boundary of sec. 12, T. 21 S., R. 10 W., to be administered by the Secretary of the Interior as a wild river.

''(B) The 5.9-mile segment from the western boundary of sec. 12, T. 21 S., R. 10 W., downstream to the eastern boundary of the northwest quarter of sec. 22, T. 21 S., R. 10

W., to be administered by the Secretary of Agriculture as a wild river.''.

TITLE XXIII—IDAHO WILDERNESS WATER FACILITIES

SEC. 2301. TREATMENT OF EXISTING WATER DIVERSIONS IN FRANK CHURCH-RIVER OF NO RETURN WILDERNESS AND SELWAY-BITTERROOT WILDERNESS, IDAHO.

(a) AUTHORIZATION FOR CONTINUED USE.—The Secretary of Agriculture is authorized to issue a special use authorization to each of the 20 owners of a water storage, transport, or diversion facility (in this section referred to as a ''facility'') located on National Forest System land in the Frank Church-River of No Return Wilderness or the Selway-Bitterroot Wilderness (as identified on the map titled ''Unauthorized Private Water Diversions located within the Frank Church River of No Return Wilderness'', dated December 14, 2009, or the map titled ''Unauthorized Private Water Diversions located within the Selway-Bitterroot Wilderness'', dated December 11, 2009) for the continued operation, maintenance, and reconstruction of the facility if the Secretary determines that—

(1) the facility was in existence on the date on which the land upon which the facility is located was designated as part of the National Wilderness Preservation System (in this section referred to as ''the date of designation'');

(2) the facility has been in substantially continuous use to deliver water for the beneficial use on the owner's non-Federal land since the date of designation;

(3) the owner of the facility holds a valid water right for use of the water on the owner's non-Federal land under Idaho State law, with a priority date that predates the date of designation; and

(4) it is not practicable or feasible to relocate the facility to land outside of the wilderness and continue the beneficial use of water on the non-Federal land recognized under State law.

(b) TERMS AND CONDITIONS.—

(1) EQUIPMENT, TRANSPORT, AND USE TERMS AND CONDITIONS.—In a special use authorization issued under subsection (a), the Secretary is authorized to—

(A) allow use of motorized equipment and mechanized transport for operation, maintenance, or reconstruction of a facility, if the Secretary determines that—

(i) the use is necessary to allow the facility to continue delivery of water to the non-Federal land for the beneficial uses recognized by the water right held under Idaho State law; and

(ii) after conducting a minimum tool analysis for the facility, the use of nonmotorized equipment and nonmechanized transport is impracticable or infeasible; and

(B) preclude use of the facility for the storage, diversion, or transport of water in excess of the water right recognized by the State of Idaho on the date of designation.

(2) ADDITIONAL TERMS AND CONDITIONS.—In a special use authorization issued under subsection (a), the Secretary is authorized to—

(A) require or allow modification or relocation of the facility in the wilderness, as the Secretary determines necessary, to reduce impacts to wilderness values set forth in section 2 of the Wilderness Act (16 U.S.C. 1131) if the beneficial use of water on the non-Federal land is not diminished; and

(B) require that the owner provide a reciprocal right of access across the non-Federal property, in which case, the owner shall receive market value for any right-of-way or other interest in real property conveyed to the United States, and market value may be paid by the Secretary, in whole or in part, by the grant of a reciprocal right-of-way, or by reduction of fees or other costs that may accrue to the owner to obtain the authorization for water facilities.

DIVISION C—FOREST SERVICE AUTHORIZATIONS

TITLE XXX—CHIMNEY ROCK NATIONAL MONUMENT AUTHORIZATION

SEC. 3001. DEFINITIONS.

In this title:

(1) NATIONAL MONUMENT.—The term ''national monument'' means the Chimney Rock National Monument established by section 3002(a).

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

(3) STATE.—The term ''State'' means the State of Colorado.

SEC. 3002. ESTABLISHMENT OF CHIMNEY ROCK NATIONAL MONUMENT.

(a) ESTABLISHMENT.—There is established in the State the Chimney Rock National Monument—

(1) to preserve, protect, and restore the archeological, cultural, historic, geologic, hydrologic, natural, educational, and scenic resources of Chimney Rock and adjacent land; and

(2) to provide for public interpretation and recreation consistent with the protection of the resources described in paragraph (1).

(b) BOUNDARIES.—

(1) IN GENERAL.—The national monument shall consist of approximately 4,726 acres of land and interests in land, as generally depicted on the map entitled ''Boundary Map, Chimney Rock National Monument'' and dated January 5, 2010.

(2) MINOR ADJUSTMENTS.—The Secretary may make minor adjustments to the boundary of the national monument to reflect the inclusion of significant archeological resources discovered after the date of enactment of this Act on adjacent National Forest System land.

(3) AVAILABILITY OF MAP.—The map described in paragraph (1) shall be on file and available for public inspection in the appropriate offices of the Forest Service.

SEC. 3003. ADMINISTRATION.

(a) IN GENERAL.—The Secretary shall—

(1) administer the national monument—

(A) in furtherance of the purposes for which the national monument was established; and

(B) in accordance with—

(i) this title; and

(ii) any laws generally applicable to the National Forest System; and

(2) allow only such uses of the national monument that the Secretary determines would further the purposes described in section 3002(a).

(b) TRIBAL USES.—

(1) IN GENERAL.—The Secretary shall administer the national monument in accordance with—

(A) the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.); and

(B) the policy described in Public Law 95–341 (commonly known as the ''American Indian Religious Freedom Act'') (42 U.S.C. 1996).

(2) TRADITIONAL USES.—Subject to any terms and conditions the Secretary determines to be necessary and in accordance with applicable law, the Secretary shall allow for the continued use of the national monument by members of Indian tribes—

(A) for traditional ceremonies; and

(B) as a source of traditional plants and other materials.

(c) VEGETATION MANAGEMENT.—The Secretary may carry out vegetation management treatments within the national monument, except that the harvesting of timber shall only be used if the Secretary determines that the harvesting is necessary for—

(1) ecosystem restoration in furtherance of the purposes described in section 3002(a); or

(2) the control of fire, insects, or diseases.

(d) MOTOR VEHICLES AND MOUNTAIN BIKES.—The use of motor vehicles and mountain bikes in the national monument shall be limited to the roads and trails identified by the Secretary as appropriate for the use of motor vehicles and mountain bikes.

(e) GRAZING.—The Secretary shall permit grazing within the national monument, where established before the date of enactment of this Act—

(1) subject to all applicable laws (including regulations); and

(2) consistent with the purposes described in section 3002(a).

(f) UTILITY RIGHT-OF-WAY UPGRADES.—Nothing in this title precludes the Secretary from renewing or authorizing the upgrading of a utility right-of-way in existence as of the date of enactment of this Act through the national monument—

(1) in accordance with—

(A) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(B) any other applicable law; and

(2) subject to such terms and conditions as the Secretary determines to be appropriate.

(g) EDUCATION AND INTERPRETIVE CENTER.—The Secretary may develop and construct an education and interpretive center to interpret the scientific and cultural resources of the national monument for the public.

SEC. 3004. MANAGEMENT PLAN.

(a) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Secretary, in consultation with Indian tribes with a cultural or historic tie to Chimney Rock, shall develop a management plan for the national monument.

(b) PUBLIC COMMENT.—In developing the management plan, the Secretary shall provide an opportunity for public comment by—

(1) State and local governments;

(2) tribal governments; and

(3) any other interested organizations and individuals.

SEC. 3005. LAND ACQUISITION.

The Secretary may acquire land and any interest in land within or adjacent to the boundary of the national monument by—

(1) purchase from willing sellers with donated or appropriated funds;

(2) donation; or

(3) exchange.

SEC. 3006. WITHDRAWAL.

(a) IN GENERAL.—Subject to valid existing rights, all Federal land within the national monument (including any land or interest in land acquired after the date of enactment of this Act) is withdrawn from—

(1) entry, appropriation, or disposal under the public land laws;

(2) location, entry, and patent under the mining laws; and

(3) subject to subsection (b), operation of the mineral leasing, mineral materials, and geothermal leasing laws.

(b) LIMITATION.—Notwithstanding subsection (a)(3), the Federal land is not withdrawn for the purposes of issuance of gas pipeline rights-of-way within easements in existence as of the date of enactment of this Act.

SEC. 3007. EFFECT.

(a) WATER RIGHTS.—

(1) IN GENERAL.—Nothing in this title affects any valid water rights, including water rights held by the United States.

(2) RESERVED WATER RIGHT.—The designation of the national monument does not create a Federal reserved water right.

(b) TRIBAL RIGHTS.—Nothing in this title affects—

(1) the rights of any Indian tribe on Indian land;

(2) any individually-held trust land or Indian allotment; or

(3) any treaty rights providing for nonexclusive access to or within the national monument by members of Indian tribes for traditional and cultural purposes.

(c) FISH AND WILDLIFE.—Nothing in this title affects the jurisdiction of the State with respect to the management of fish and wildlife on public land in the State.

(d) ADJACENT USES.—Nothing in this title—

(1) creates a protective perimeter or buffer zone around the national monument; or

(2) affects private property outside of the boundary of the national monument.

SEC. 3008. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title.

TITLE XXXI—NORTH FORK FLATHEAD RIVER WATERSHED PROTECTION

SEC. 3101. DEFINITIONS.

In this title:

(1) ELIGIBLE FEDERAL LAND.—The term ''eligible Federal land'' means—

(A) any federally owned land or interest in land depicted on the Map as within the North Fork Federal Lands Withdrawal Area; or

(B) any land or interest in land located within the North Fork Federal Lands Withdrawal Area that is acquired by the Federal Government after the date of enactment of this Act.

(2) MAP.—The term ''Map'' means the Bureau of Land Management map entitled ''North Fork Federal Lands Withdrawal Area'' and dated June 9, 2010.

SEC. 3102. WITHDRAWAL.

(a) WITHDRAWAL.—Subject to valid existing rights, the eligible Federal land is withdrawn from—

(1) all forms of location, entry, and patent under the mining laws; and

(2) disposition under all laws relating to mineral leasing and geothermal leasing.

(b) AVAILABILITY OF MAP.—Not later than 30 days after the date of enactment of this Act, the Map shall be made available to the public at each appropriate office of the Bureau of Land Management.

TITLE XXXII—LAND CONVEYANCES AND EXCHANGES

Subtitle A—Sugar Loaf Fire District Land Exchange

SEC. 3201. DEFINITIONS.

In this subtitle:

(1) DISTRICT.—The term ''District'' means the Sugar Loaf Fire Protection District of Boulder, Colorado.

(2) FEDERAL LAND.—The term ''Federal land'' means—

(A) the parcel of approximately 1.52 acres of land in the National Forest that is generally depicted on the map numbered 1, entitled ''Sugarloaf Fire Protection District Proposed Land Exchange'', and dated November 12, 2009; and

(B) the parcel of approximately 3.56 acres of land in the National Forest that is generally depicted on the map numbered 2, entitled ''Sugarloaf Fire Protection District Proposed Land Exchange'', and dated November 12, 2009.

(3) NATIONAL FOREST.—The term ''National Forest'' means the Arapaho-Roosevelt National Forests located in the State of Colorado.

(4) NON-FEDERAL LAND.—The term ''non-Federal land'' means the parcel of approximately 5.17 acres of non-Federal land in unincorporated Boulder County, Colorado, that is generally depicted on the map numbered 3, entitled ''Sugarloaf Fire Protection District Proposed Land Exchange'', and dated November 12, 2009.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

SEC. 3202. LAND EXCHANGE.

(a) IN GENERAL.—Subject to the provisions of this subtitle, if the District offers to convey to the Secretary all right, title, and interest of the District in and to the non-Federal land, and the offer is acceptable to the Secretary—

(1) the Secretary shall accept the offer; and

(2) on receipt of acceptable title to the non-Federal land, the Secretary shall convey to the District all right, title, and interest of the United States in and to the Federal land.

(b) APPLICABLE LAW.—Section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716) shall apply to the land exchange authorized under subsection (a), except that—

(1) the Secretary may accept a cash equalization payment in excess of 25 percent of the value of the Federal land; and

(2) as a condition of the land exchange under subsection (a), the District shall—

(A) pay each cost relating to any land surveys and appraisals of the Federal land and non-Federal land; and

(B) enter into an agreement with the Secretary that allocates any other administrative costs between the Secretary and the District.

(c) ADDITIONAL TERMS AND CONDITIONS.—The land exchange under subsection (a) shall be subject to—

(1) valid existing rights; and

(2) any terms and conditions that the Secretary may require.

(d) TIME FOR COMPLETION OF LAND EXCHANGE.—It is the intent of Congress that the land exchange under subsection (a) shall be completed not later than 1 year after the date of enactment of this Act.

(e) AUTHORITY OF SECRETARY TO CONDUCT SALE OF FEDERAL LAND.—

(1) IN GENERAL.—In accordance with paragraph (2), if the land exchange under subsection (a) is not completed by the date that is 1 year after the date of enactment of this Act, the Secretary may offer to sell to the District the Federal land.

(2) VALUE OF FEDERAL LAND.—The Secretary may offer to sell to the District the Federal land for the fair market value of the Federal land.

(f) DISPOSITION OF PROCEEDS.—

(1) IN GENERAL.—The Secretary shall deposit in the fund established under Public Law 90–171 (commonly known as the ''Sisk Act'') (16 U.S.C. 484a) any amount received by the Secretary as the result of—

(A) any cash equalization payment made under subsection (b); and

(B) any sale carried out under subsection (e).

(2) USE OF PROCEEDS.—Amounts deposited under paragraph (1) shall be available to the Secretary, without further appropriation and until expended, for the acquisition of land or interests in land in the National Forest.

(g) MANAGEMENT AND STATUS OF ACQUIRED LAND.—The non-Federal land acquired by the Secretary under this section shall be—

(1) added to, and administered as part of, the National Forest; and

(2) managed by the Secretary in accordance with—

(A) the Act of March 1, 1911 (commonly known as the ''Weeks Law'') (16 U.S.C. 480 et seq.); and

(B) any laws (including regulations) applicable to the National Forest.

(h) REVOCATION OF ORDERS; WITHDRAWAL.—

(1) REVOCATION OF ORDERS.—Any public order withdrawing the Federal land from entry, appropriation, or disposal under the public land laws is revoked to the extent necessary to permit the conveyance of the Federal land to the District.

(2) WITHDRAWAL.—On the date of enactment of this Act, if not already withdrawn or segregated from entry and appropriation under the public land laws (including the mining and mineral leasing laws) and the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.), the Federal land is withdrawn until the date of the conveyance of the Federal land to the District.

Subtitle B—Wasatch-Cache National Forest Land Conveyance

SEC. 3211. DEFINITIONS.

In this subtitle:

(1) FEDERAL LAND.—The term ''Federal land'' means the following 3 parcels of National Forest System land located in the Wasatch-Cache National Forest in the incorporated boundary of the Town:

(A) A parcel of land occupied by the administration building of the Town pursuant to Forest Service special use permit SLC102708.

(B) A parcel of land occupied by the public service building of the Town pursuant to Forest Service special use permit SLC102708.

(C) A parcel of land occupied by the water service building of the Town pursuant to Forest Service special use permit SLC102707.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

(3) TOWN.—The term ''Town'' means the town of Alta, Utah.

SEC. 3212. CONVEYANCE OF FEDERAL LAND TO ALTA, UTAH.

(a) IN GENERAL.—Subject to subsection (b) and valid existing rights, as soon as practicable after the date of enactment of this Act, the Secretary shall convey to the Town, without consideration, all right, title, and interest of the United States in and to the Federal land.

(b) CONDITIONS.—

(1) USE OF FEDERAL LAND.—As a condition of the conveyance under subsection (a), the Town shall use the Federal land only for public purposes consistent with the applicable special use permit described in section 3211(1).

(2) DEED AND REVERSION.—The conveyance under subsection (a) shall be by quitclaim deed, which shall provide that the Federal land shall revert to the Secretary, at the election of the Secretary, if the Federal land is used for a purpose other than a purpose provided under paragraph (1).

(3) ACREAGE.—

(A) IN GENERAL.—The boundaries of the Federal land conveyed under subsection (a) shall be determined by the Secretary, in consultation with the Town, subject to the condition that the Federal land conveyed may not exceed a total of 2 acres.

(B) SURVEY AND LEGAL DESCRIPTION.—The exact acreage and legal description of the Federal land shall be determined, in accordance with subparagraph (A), by a survey approved by the Secretary.

(4) COSTS.—The Town shall pay each administrative cost of the conveyance under subsection (a), including the costs of the survey carried out under paragraph (3).

(5) ADDITIONAL TERMS AND CONDITIONS.—The conveyance under subsection (a) shall be subject to such terms and conditions as the Secretary may require.

Subtitle C—Los Padres National Forest Land Exchange

SEC. 3221. DEFINITIONS.

In this subtitle:

(1) FEDERAL LAND.—The term ''Federal land'' means the approximately 5 acres of National Forest System land in Santa Barbara County, California, as generally depicted on the map.

(2) FOUNDATION.—The term ''Foundation'' means the White Lotus Foundation, a nonprofit foundation located in Santa Barbara, California.

(3) MAP.—The term ''map'' means the map entitled ''San Marcos Pass Encroachment for Consideration of Legislative Remedy'' and dated June 1, 2009.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

SEC. 3222. LAND EXCHANGE.

(a) IN GENERAL.—Subject to the provisions of this section, if the Foundation offers to convey to the Secretary all right, title, and interest of the Foundation in and to a parcel of non-Federal land that is acceptable to the Secretary—

(1) the Secretary shall accept the offer; and

(2) on receipt of acceptable title to the non-Federal land, the Secretary shall convey to the Foundation all right, title, and interest of the United States in and to the Federal land.

(b) APPLICABLE LAW.—The land exchange authorized under subsection (a) shall be subject to section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716).

(c) TIME FOR COMPLETION OF LAND EXCHANGE.—It is the intent of Congress that the land exchange under subsection (a) shall be completed not later than 2 years after the date of enactment of this Act.

(d) AUTHORITY OF SECRETARY TO CONDUCT SALE OF FEDERAL LAND.—If the land exchange under subsection (a) is not completed by the date that is 2 years after the date of enactment of this Act, the Secretary may offer to sell to the Foundation the Federal land for fair market value.

(e) ADDITIONAL TERMS AND CONDITIONS.—The land exchange under subsection (a) and any sale under subsection (d) shall be subject to—

(1) valid existing rights;

(2) the Secretary finding that the public interest would be well served by making the exchange or sale;

(3) any terms and conditions that the Secretary may require; and

(4) the Foundation paying the reasonable costs of any surveys, appraisals, and any other administrative costs associated with the land exchange or sale.

(f) APPRAISALS.—

(1) IN GENERAL.—The land conveyed under subsection (a) or (d) shall be appraised by an independent appraiser selected by the Secretary.

(2) REQUIREMENTS.—An appraisal under paragraph (1) shall be conducted in accordance with nationally recognized appraisal standards, including—

(A) the Uniform Appraisal Standards for Federal Land Acquisitions; and

(B) the Uniform Standards of Professional Appraisal Practice.

(g) DISPOSITION OF PROCEEDS.—

(1) IN GENERAL.—The Secretary shall deposit in the fund established under Public Law 90–171 (commonly known as the ''Sisk Act'') (16 U.S.C. 484a) any amount received by the Secretary as the result of—

(A) any cash equalization payment made under subsection (b); and

(B) any sale carried out under subsection (d).

(2) USE OF PROCEEDS.—Amounts deposited under paragraph (1) shall be available to the Secretary, without further appropriation and until expended, for the acquisition of land or interests in land in the Los Padres National Forest.

(h) MANAGEMENT AND STATUS OF ACQUIRED LAND.—Any non-Federal land acquired by the Secretary under this subtitle shall be managed by the Secretary in accordance with—

(1) the Act of March 1, 1911 (commonly known as the ''Weeks Law'') (16 U.S.C. 480 et seq.); and

(2) any laws (including regulations) applicable to the National Forest System.

Subtitle D—Box Elder Land Conveyance

SEC. 3231. CONVEYANCE OF CERTAIN LANDS TO MANTUA, UTAH.

(a) CONVEYANCE REQUIRED.—The Secretary of Agriculture shall convey, without consideration, to the town of Mantua, Utah (in this section referred to as the ''town''), all right, title, and interest of the United States in and to parcels of National Forest System land in the Wasatch-Cache National Forest in Box Elder County, Utah, consisting of approximately 31.5 acres within section 27, township 9 north, range 1 west, Salt Lake meridian and labeled as parcels A, B, and C on the map entitled ''Box Elder Utah Land Conveyance Act'' and dated July 14, 2008.

(b) SURVEY.—If necessary, the exact acreage and legal description of the lands to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the town.

(c) USE OF LAND.—As a condition of the conveyance under subsection (a), the town shall use the land conveyed under such subsection for public purposes.

(d) REVERSIONARY INTEREST.—In the quitclaim deed to the town prepared as part of the conveyance under subsection (a), the Secretary shall provide that the land conveyed to the town under such subsection shall revert to the Secretary, at the election of the Secretary, if the land is used for other than public purposes.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance authorized under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

Subtitle E—Deafy Glade Land Exchange

SEC. 3241. LAND EXCHANGE, MENDOCINO NATIONAL FOREST, CALIFORNIA.

(a) DEFINITIONS.—In this section:

(1) COUNTY.—The term ''County'' means Solano County, California.

(2) FEDERAL LAND.—The term ''Federal land'' means the parcel of approximately 82 acres of land—

(A) known as the ''Fouts Springs Ranch''; and

(B) generally depicted as the ''Fouts Springs Parcel'' on the map.

(3) MAP.—The term ''map'' means the map entitled ''Fouts Springs-Deafy Glade: Federal and Non-Federal Lands'' and dated July 17, 2008.

(4) NON-FEDERAL LAND.—The term ''non-Federal land'' means the 4 parcels of land comprising approximately 160 acres that are generally depicted as the ''Deafy Glade Parcel'' on the map.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

(b) LAND EXCHANGE REQUIRED.—Subject to subsections (c) through (f), if the County conveys to the United States such right, title, and interest in and to the non-Federal land that is acceptable to the Secretary, the Secretary shall convey to the County such right, title, and interest to the Federal land that the Secretary considers to be appropriate.

(c) APPLICABLE LAW.—Section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716) shall apply to the land exchange under this section.

(d) SURVEY; ADMINISTRATIVE COSTS.—

(1) IN GENERAL.—The exact acreage and legal description of the land to be exchanged under subsection (b) shall be determined by a survey satisfactory to the Secretary.

(2) COSTS.—The costs of the survey, appraisal, and any other administrative costs relating to the land exchange shall be paid by the County.

(e) MANAGEMENT OF ACQUIRED LAND.—The non-Federal land acquired by the Secretary under subsection (b) shall be—

(1) added to, and administered as part of, the Mendocino National Forest; and

(2) managed in accordance with—

(A) the Act of March 1, 1911 (commonly known as the ''Weeks Law'') (16 U.S.C. 480 et seq.); and

(B) the laws (including regulations) applicable to the National Forest System.

(f) ADDITIONAL TERMS AND CONDITIONS.—The land exchange under subsection (b) shall be subject to any additional terms and conditions that the Secretary may require, including such terms and conditions as are necessary to ensure that the use of the Federal land does not adversely impact the use of the adjacent National Forest System land.

Subtitle F—Wallowa Forest Service Compound Conveyance

SEC. 3251. CONVEYANCE TO CITY OF WALLOWA, OREGON.

(a) DEFINITIONS.—In this subtitle:

(1) CITY.—The term ''City'' means the city of Wallowa, Oregon.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

(3) WALLOWA FOREST SERVICE COMPOUND.—The term ''Wallowa Forest Service Compound'' means the approximately 1.11 acres of National Forest System land that—

(A) was donated by the City to the Forest Service on March 18, 1936; and

(B) is located at 602 First Street, Wallowa, Oregon.

(b) CONVEYANCE.—On the request of the City submitted to the Secretary by the date that is not later than 1 year after the date of enactment of this Act and subject to the provisions of this subtitle, the Secretary shall convey to the City all right, title, and interest of the United States in and to the Wallowa Forest Service Compound.

(c) CONDITIONS.—The conveyance under subsection (b) shall be—

(1) by quitclaim deed;

(2) for no consideration; and

(3) subject to—

(A) valid existing rights; and

(B) such terms and conditions as the Secretary may require.

(d) USE OF WALLOWA FOREST SERVICE COMPOUND.—As a condition of the conveyance under subsection (b), the City shall—

(1) use the Wallowa Forest Service Compound as a historical and cultural interpretation and education center;

(2) ensure that the Wallowa Forest Service Compound is managed by a nonprofit entity; and

(3) agree to manage the Wallowa Forest Service Compound with due consideration and protection for the historic values of the Wallowa Forest Service Compound.

(e) REVERSION.—In the quitclaim deed to the City, the Secretary shall provide that the Wallowa Forest Service Compound shall revert to the Secretary, at the election of the Secretary, if any of the conditions under subsection (c) or (d) are violated.

Subtitle G—Sandia Pueblo Settlement Technical Amendment

SEC. 3261. SANDIA PUEBLO SETTLEMENT TECHNICAL AMENDMENT.

Section 413(b) of the T'uf Shur Bien Preservation Trust Area Act (16 U.S.C. 539m–11(b)) is amended—

(1) in the first sentence of paragraph (4), by striking ''conveyance'' and inserting ''the title to be conveyed''; and

(2) by adding at the end the following:

''(6) FAILURE TO EXCHANGE.—

''(A) IN GENERAL.—If the land exchange authorized under paragraph (1) is not completed by the date that is 180 days after the date of enactment of this paragraph, the Secretary, on receipt of consideration under subparagraph (B) and at the request of the Pueblo and the Secretary of the Interior, shall transfer the National Forest land generally depicted as 'USFS Land Proposed for Exchange' on the map entitled 'Sandia Pueblo/Cibola National Forest: Proposed Lands for Exchange' and dated July 14, 2009, to the Secretary of the Interior to be held in trust by the United States for the Pueblo, subject to the condition that the land remain in its natural state.

''(B) CONSIDERATION.—In consideration for the National Forest land to be held in trust under subparagraph (A), the Pueblo shall pay to the Secretary the amount that is equal to the difference between—

''(i) the amount that is equal to the fair market value of the National Forest land, as subject to the condition that the National Forest land remain in its natural state; and

''(ii) the amount of compensation owed to the Pueblo by the Secretary for the right-of-way and conservation easement on the Piedra Lisa tract under subsection (c)(2).

''(C) USE OF FUNDS.—Any amounts received by the Secretary under this paragraph shall be deposited and available for use without further appropriation in accordance with paragraph (3).''.

TITLE XXXIII—GENERAL AUTHORIZATIONS

Subtitle A—Ski Areas Summer Uses

SEC. 3301. PURPOSE.

The purpose of this subtitle is to amend the National Forest Ski Area Permit Act of 1986 (16 U.S.C. 497b)—

(1) to enable snow-sports (other than nordic and alpine skiing) to be permitted on National Forest System land, subject to ski area permits issued by the Secretary of Agriculture under section 3 of the National Forest Ski Area Permit Act of 1986 (16 U.S.C. 497b); and

(2) to clarify the authority of the Secretary of Agriculture to permit appropriate additional seasonal or year-round recreational activities and facilities on National Forest System land subject to ski area permits issued by the Secretary of Agriculture under section 3 of the National Forest Ski Area Permit Act of 1986 (16 U.S.C. 497b).

SEC. 3302. SKI AREA PERMITS.

Section 3 of the National Forest Ski Area Permit Act of 1986 (16 U.S.C. 497b) is amended—

(1) in subsection (a), by striking ''nordic and alpine ski areas and facilities'' and inserting ''ski areas and associated facilities'';

(2) in subsection (b), in the matter preceding paragraph (1), by striking ''nordic and alpine skiing operations and purposes'' and inserting ''skiing and other snow sports and recreational uses authorized by this Act'';

(3) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively;

(4) by inserting after subsection (b) the following:

''(c) OTHER RECREATIONAL USES.—

''(1) AUTHORITY OF SECRETARY.—Subject to the terms of a ski area permit issued pursuant to subsection (b), the Secretary may authorize a ski area permittee to provide such other seasonal or year-round natural resource-based recreational activities and associated facilities (in addition to skiing and other snow-sports) on National Forest System land subject to a ski area permit as the Secretary determines to be appropriate.

''(2) REQUIREMENTS.—Each activity and facility authorized by the Secretary under paragraph (1) shall—

''(A) encourage outdoor recreation and enjoyment of nature;

''(B) to the extent practicable—

''(i) harmonize with the natural environment of the National Forest System land on which the activity or facility is located; and

''(ii) be located within the developed portions of the ski area;

''(C) be subject to such terms and conditions as the Secretary determines to be appropriate; and

''(D) be authorized in accordance with—

''(i) the applicable land and resource management plan; and

''(ii) applicable laws (including regulations).

''(3) INCLUSIONS.—Activities and facilities that may, in appropriate circumstances, be authorized under paragraph (1) include—

''(A) zip lines;

''(B) mountain bike terrain parks and trails;

''(C) frisbee golf courses; and

''(D) ropes courses.

''(4) EXCLUSIONS.—Activities and facilities that are prohibited under paragraph (1) include—

''(A) tennis courts;

''(B) water slides and water parks;

''(C) swimming pools;

''(D) golf courses; and

''(E) amusement parks.

''(5) LIMITATION.—The Secretary may not authorize any activity or facility under paragraph (1) if the Secretary determines that the authorization of the activity or facility would result in the primary recreational purpose of the ski area permit to be a purpose other than skiing and other snow-sports.

''(6) BOUNDARY DETERMINATION.—In determining the acreage encompassed by a ski area permit under subsection (b)(3), the Secretary shall not consider the acreage necessary for activities and facilities authorized under paragraph (1).

''(7) EFFECT ON EXISTING AUTHORIZED ACTIVITIES AND FACILITIES.—Nothing in this subsection affects any activity or facility authorized by a ski area permit in effect on the date of enactment of this subsection during the term of the permit.'';

(5) by striking subsection (d) (as redesignated by paragraph (3)), and inserting the following:

''(d) REGULATIONS.—Not later than 2 years after the date of enactment of this subsection, the Secretary shall promulgate regulations to implement this section.''; and

(6) in subsection (e) (as redesignated by paragraph (3)), by striking ''the National Environmental Policy Act, or the Forest and Rangelands Renewable Resources Planning Act as amended by the National Forest Management Act'' and inserting ''the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.)''.

SEC. 3303. EFFECT.

Nothing in the amendments made by this subtitle establishes a legal preference for the holder of a ski area permit to provide activities and associated facilities authorized by section 3(c) of the National Forest Ski Area Permit Act of 1986 (16 U.S.C. 497b(c)) (as amended by section 3302).

Subtitle B—National Forest Insect and Disease Authorities

SEC. 3311. PURPOSES.

The purposes of this subtitle are—

(1) to ensure that adequate emphasis is placed on the mitigation of hazards posed by landscape-scale epidemics of bark beetles and other insects and diseases through the identification of areas affected by the epidemics, including areas in which resulting hazard trees pose a high risk to public health and safety; and

(2) to help focus resources within areas characterized by landscape-scale insect or disease epidemics to mitigate hazards associated with—

(A) falling trees; and

(B) wildfire.

SEC. 3312. DEFINITIONS.

In this subtitle:

(1) AFFECTED STATE.—The term ''affected State'' includes each of the States of—

(A) Alaska;
(B) Arizona;
(C) California;
(D) Colorado;
(E) Idaho;
(F) Montana;
(G) Nevada;
(H) New Mexico;
(I) Oregon;
(J) South Dakota;
(K) Utah;
(L) Washington; and
(M) Wyoming.

(2) HIGH-RISK AREA.—The term ''high-risk area'' means a road, trail, or other area that poses a high risk to public health or safety due to hazard trees resulting from landscape-scale tree mortality caused by an insect or disease epidemic.

(3) INSECT OR DISEASE EPIDEMIC AREA.—The term ''insect or disease epidemic area'' means an area of National Forest System land in which landscape-scale tree mortality caused by an insect or disease epidemic exists.

(4) NATIONAL FOREST SYSTEM.—The term ''National Forest System'' has the meaning given the term in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a)).

(5) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

SEC. 3313. DESIGNATION OF AREAS.

(a) IDENTIFICATION OF HIGH-RISK AREAS.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall identify by map or other appropriate means high-risk areas within the National Forest System in the affected States.

(2) PUBLIC EDUCATION.—In conjunction with the information developed pursuant this subsection, the Secretary shall develop educational materials that describe the risk posed by hazard trees in high-risk areas and measures that can be taken by the public to avoid or reduce that risk.

(3) CONSULTATION.—In developing the information and educational materials required by this subsection, the Secretary shall consult with interested State, local, and tribal governments, first responders, and other stakeholders.

(4) UPDATES.—The Secretary shall periodically review and revise the information and educational materials required by this subsection to reflect the best available information.

(5) PUBLIC AVAILABILITY.—The information and associated educational materials required by this subsection shall be on file and available for public inspection, including in the appropriate offices of the Forest Service.

(b) IDENTIFICATION OF INSECT AND DISEASE EPIDEMIC AREAS.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall identify by map or other appropriate means insect or disease epidemic areas within the National Forest System in the affected States.

(2) REQUIRED INFORMATION.—The information required by paragraph (1) shall include—

(A) a geographic estimate of the annual mortality caused by the insect or disease epidemic; and

(B) a projection, based on the best available science, of future tree mortality resulting from the insect or disease epidemic.

(3) UPDATES.—The Secretary shall periodically review and revise the information required by paragraph (1) to reflect the best available information.

(4) AVAILABILITY.—The information required by this subsection shall be made available to—

(A) communities in or adjacent to an insect or disease epidemic area that have developed a community wildfire protection plan (as defined in section 101 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6511));

(B) fire departments and other wildfire-fighting organizations responding to, or likely to respond to, a wildfire in an insect or disease epidemic area; and

(C) the public through the appropriate offices of the Forest Service.

(c) CONTRACTS AND FINANCIAL ASSISTANCE.—To help collect, develop, monitor, and distribute the information and materials required by this section, the Secretary may enter into contracts or provide financial assistance through cooperative agreements in accordance with section 8 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2104) with—

(1) the State Forester or equivalent State official of an affected State;

(2) educational institutions; or

(3) other organizations.

SEC. 3314. SUPPORT FOR RESTORATION AND RESPONSE.

(a) SUPPORT FOR BIOMASS UTILIZATION.—To help reduce the risk to public health and safety from hazard trees and wildfires and to restore ecosystems affected by insect and disease epidemics, the Secretary may assist State and local governments, Indian tribes, private landowners, and other persons in affected States with the collection, harvest, storage, and transportation of eligible material from areas identified pursuant to section 3313(b) in accordance with section 9011(d) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8111(d)).

(b) RESTORATION ASSISTANCE FOR PRIVATE LANDOWNERS.—The Secretary may make payments to an owner of nonindustrial private forest land in an affected State to carry out emergency measures to restore the land after an insect or disease infestation in accordance with the emergency forest restoration program established under section 407 of the Agricultural Credit Act of 1978 (16 U.S.C. 2206).

(c) NATIONAL FOREST HAZARDOUS FUEL REDUCTION.—The Secretary shall carry out authorized hazardous fuel reduction projects in affected States on National Forest System land on which an epidemic of disease or insects poses a significant threat to an ecosystem component, or forest or rangeland resource, in accordance with the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6501 et seq.).

SEC. 3315. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle such sums as are necessary.

Subtitle C—Good Neighbor Authority

SEC. 3321. GOOD NEIGHBOR AGREEMENTS.

(a) DEFINITIONS.—In this section:

(1) AUTHORIZED RESTORATION SERVICES.—The term ''authorized restoration services'' means similar and complementary forest, rangeland, and watershed restoration services carried out on adjacent Federal land and non-Federal land by either the Secretary or a Governor pursuant to—

(A) a good neighbor agreement; and

(B) a cooperative agreement or contract entered into under subsection (c).

(2) FEDERAL LAND.—

(A) IN GENERAL.—The term ''Federal land'' means the following land in a State located in whole or in part west of the 100th meridian:

(i) National Forest System land.

(ii) Public lands (as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702)).

(B) EXCLUSIONS.—The term ''Federal land'' does not include—

(i) a component of the National Wilderness Preservation System, National Wild and Scenic Rivers System, National Trails System, or National Landscape Conservation System;

(ii) a National Monument, National Preserve, National Scenic Area, or National Recreation Area; or

(iii) a wilderness study area.

(3) FOREST, RANGELAND, AND WATERSHED RESTORATION SERVICES.—The term ''forest, rangeland, and watershed restoration services'' means—

(A) activities to treat insect- and disease-infected trees;

(B) activities to reduce hazardous fuels;

(C) activities to maintain roads and trails that cross a boundary between Federal land and non-Federal land; and

(D) any other activities to restore or improve forest, rangeland, or watershed health, including fish and wildlife habitat.

(4) GOOD NEIGHBOR AGREEMENT.—The term ''good neighbor agreement'' means—

(A) a nonfunding master cooperative agreement entered into between the Secretary and a Governor under chapter 63 of title 31, United States Code; or

(B) a memorandum of agreement or understanding entered into between the Secretary and a Governor.

(5) GOVERNOR.—The term ''Governor'' means the Governor or any other appropriate executive official of an affected State.

(6) SECRETARY.—The term ''Secretary'' means—

(A) the Secretary of Agriculture, with respect to National Forest System land; and

(B) the Secretary of the Interior, with respect to Bureau of Land Management land.

(b) GOOD NEIGHBOR AGREEMENTS.—

(1) IN GENERAL.—The Secretary may enter into a good neighbor agreement with a Governor to coordinate the procurement and implementation of authorized restoration services in accordance with this section.

(2) PUBLIC NOTICE AND COMMENT.—The Secretary shall make each good neighbor agreement available to the public.

(c) TASK ORDERS, CONTRACTS, AND COOPERATIVE AGREEMENTS.—

(1) IN GENERAL.—The Secretary may issue a task order for, or enter into a contract (including a sole source contract) or cooperative agreement with, a Governor to carry out authorized restoration services.

(2) REQUIREMENTS.—Each task order, contract, or cooperative agreement entered into under paragraph (1) shall be executed in accordance with—

(A) chapter 63 of title 31, United States Code; and

(B) the applicable good neighbor agreement.

(d) CONTRACT AND SUBCONTRACT REQUIREMENTS.—

(1) REQUIREMENTS FOR SERVICES ON FEDERAL LAND.—

(A) IN GENERAL.—For authorized restoration services carried out on Federal land under subsection (c), each contract and subcontract issued under the authority of a Governor shall include the provisions described in subparagraph (B) that would have been included in the contract had the Secretary been a party to the contract.

(B) APPLICABLE PROVISIONS.—The provisions referred to in subparagraph (A) are provisions for—

(i) wages and benefits for workers employed by contractors and subcontractors required by—

(I) subchapter IV of chapter 31 of part A of subtitle II of title 40, United States Code; and

(II) chapter 6 of title 41, United States Code;

(ii) nondiscrimination; and

(iii) worker safety and protection.

(2) REQUIREMENTS FOR SMALL BUSINESSES.—Each contract and subcontract for authorized restoration services under subsection (c) shall comply with provisions for small business assistance and protection that would have been applicable to the contract had the Secretary been a party to the contract.

(3) LIABILITY.—The Secretary shall include provisions in each good neighbor agreement, contract, or cooperative agreement, as appropriate, governing the potential liability of the State and the Secretary for actions carried out under this section.

(e) TERMINATION OF EFFECTIVENESS.—

(1) IN GENERAL.—The authority of the Secretary to enter into cooperative agreements and contracts under this section terminates on September 30, 2019.

(2) CONTRACT DATE.—The termination date of a cooperative agreement or contract entered into under this section shall not extend beyond September 30, 2020.

(3) CONSOLIDATED AUTHORITY.—

(A) FEDERAL AND STATE COOPERATIVE WATERSHED RESTORATION AND PROTECTION IN COLORADO.—Section 331 of the Department of the Interior and Related Agencies Appropriations Act, 2001 (Public Law 106–291; 114 Stat. 996) is repealed.

(B) FEDERAL AND STATE COOPERATIVE FOREST, RANGELAND, AND WATERSHED RESTORATION IN UTAH.—Section 337 of the Department of the Interior and Related Agencies Appropriations Act, 2005 (Public Law 108–447; 118 Stat. 3102) is repealed.

(4) EXISTING CONTRACTS.—Nothing in the amendments made by this section affects contracts in effect on the day before the date of enactment of this Act.

Subtitle D—Federal Land Avalanche Protection Program

SEC. 3331. DEFINITIONS.

In this subtitle:

(1) COMMITTEE.—The term ''Committee'' means the Avalanche Artillery Users of North America Committee.

(2) PROGRAM.—The term ''program'' means the avalanche protection program established under section 3332(a).

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture, acting through the Chief of the Forest Service.

SEC. 3332. AVALANCHE PROTECTION PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish an avalanche protection program to provide information and assistance to users of avalanche-prone National Forest System land.

(b) OBJECTIVES.—The objectives of the program include—

(1) to inform and educate the public about the risks posed by avalanches to reduce the potential for injury, death, or property damage;

(2) to provide avalanche forecasts for avalanche-prone areas of the National Forest System that are frequented by recreational or other users;

(3) to provide oversight of activities relating to the prevention and control of avalanches by ski area and other special use permit holders on National Forest System land, including the procurement, control, and use of artillery; and

(4) to facilitate research on the objectives of the program, including research on the development of alternatives to military artillery.

(c) COORDINATION.—In carrying out this section, the Secretary shall—

(1) use the resources of—

(A) the National Avalanche Center of the Forest Service; and

(B) other partners; and

(2) work with the Committee and other partners to improve—

(A) coordination among users of artillery used to prevent and control avalanches; and

(B) access to, and the control and use of, artillery and other methods to prevent and control avalanches.

(d) GRANTS.—

(1) IN GENERAL.—The Secretary may make grants to any person to further the objectives of the program.

(2) PRIORITY.—The Secretary shall give priority to grants under paragraph (1) that enhance public safety.

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $4,000,000 for each of fiscal years 2010 through 2014.

DIVISION D—DEPARTMENT OF THE INTERIOR AUTHORIZATIONS

TITLE XL—FEDERAL LAND TRANSACTION FACILITATION ACT REAUTHORIZATION

SEC. 4001. REAUTHORIZATION.

The Federal Land Transaction Facilitation Act is amended—

(1) in section 203(2) (43 U.S.C. 2302(2)), by striking ''on the date of enactment of this Act was'' and inserting ''is'';

(2) in section 205 (43 U.S.C. 2304)—

(A) in subsection (a), by striking ''this Act'' and inserting ''America's Great Outdoors Act of 2010''; and

(B) in subsection (d), by striking ''11'' and inserting ''21'';

(3) in section 206 (43 U.S.C. 2305), by striking subsection (f); and

(4) in section 207(b) (43 U.S.C. 2306(b))—

(A) in paragraph (1)—

(i) by striking ''96–568'' and inserting ''96–586''; and

(ii) by striking ''; or'' and inserting a semicolon;

(B) in paragraph (2)—

(i) by inserting ''Public Law 105–263;'' before ''112 Stat.''; and

(ii) by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

''(3) the White Pine County Conservation, Recreation, and Development Act of 2006 (Public Law 109–432; 120 Stat. 3028);

''(4) the Lincoln County Conservation, Recreation, and Development Act of 2004 (Public Law 108–424; 118 Stat. 2403);

''(5) subtitle F of title I of the Omnibus Public Land Management Act of 2009 (16 U.S.C. 1132 note; Public Law 111–11);

''(6) subtitle O of title I of the Omnibus Public Land Management Act of 2009 (16 U.S.C. 460www note, 1132 note; Public Law 111–11);

''(7) section 2601 of the Omnibus Public Land Management Act of 2009 (Public Law 111–11; 123 Stat. 1108); or

''(8) section 2606 of the Omnibus Public Land Management Act of 2009 (Public Law 111–11; 123 Stat. 1121).''.

TITLE XLI—NATIONAL VOLCANO EARLY WARNING PROGRAM

SEC. 4101. DEFINITIONS.

In this title:

(1) PROGRAM.—The term ''program'' means the National Volcano Early Warning and Monitoring Program established under section 4102(a).

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

SEC. 4102. NATIONAL VOLCANO EARLY WARNING AND MONITORING PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish within the United States Geological Survey a program to be known as the ''National Volcano Early Warning and Monitoring Program''.

(b) COMPONENTS.—The program shall consist of a national volcano watch office and data center, which shall oversee and coordinate the activities of United States Geological Survey regional volcano watch and data centers.

(c) PURPOSES.—The purposes of the program are—

(1) to monitor and study volcanoes and volcanic activity throughout the United States at a level commensurate with the threat posed by each volcano; and

(2) to warn and protect people and property from undue and avoidable harm from volcanic activity.

SEC. 4103. MANAGEMENT.

(a) MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall prepare a management plan for establishing and operating the program.

(2) INCLUSIONS.—The management plan shall include—

(A) annual cost estimates of—

(i) operating the program; and

(ii) updating the data collection, monitoring, and analysis systems;

(B) annual standards and performance goals; and

(C) recommendations for establishing new, or enhancing existing, partnerships with State agencies or universities.

(b) PARTNERSHIPS.—The Secretary may enter into cooperative agreements or partnerships with State agencies and universities, under which the Secretary may designate the agency or university as volcano observatory partners for the program.

(c) COORDINATION WITH OTHER FEDERAL AGENCIES.—The Secretary shall coordinate activities authorized under this title with the heads of relevant Federal agencies including—

(1) the Secretary of Transportation;

(2) the Secretary of Commerce;

(3) the Administrator of the Federal Aviation Administration; and

(4) the Director of the Federal Emergency Management Administration.

(d) GRANT PROGRAM.—

(1) IN GENERAL.—The Secretary may establish a competitive grant program to support research and monitoring of volcanic activities in furtherance of this title.

(2) COST-SHARING REQUIREMENT.—The non-Federal share of the total cost of an activity provided assistance under this subsection shall be 25 percent.

(e) ANNUAL REPORT.—The Secretary shall annually submit to Congress a report that describes the activities undertaken during the previous year to carry out this title.

SEC. 4104. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title $15,000,000 for each of fiscal years 2010 through 2020.

TITLE XLII—UPPER CONNECTICUT RIVER WATERSHED

SEC. 4201. DEFINITIONS.

In this title:

(1) COMMISSIONS.—The term ''Commissions'' means the Connecticut River Joint Commissions of New Hampshire and Vermont.

(2) MANAGEMENT PLAN.—

(A) IN GENERAL.—The term ''management plan'' means the management plan developed by the Commissions entitled ''Connecticut River Corridor Management Plan'' and dated May 1997.

(B) INCLUSIONS.—The term ''management plan'' includes any updates to the management plan described in subparagraph (A).

(3) PROGRAM.—The term ''program'' means the Connecticut River Grants and Technical Assistance Program established by section 4202(a).

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(5) STATE.—The term ''State'' means each of the States of New Hampshire and Vermont.

(6) WATERSHED.—The term ''watershed'' means the upper Connecticut River watershed.

SEC. 4202. CONNECTICUT RIVER GRANTS AND TECHNICAL ASSISTANCE PROGRAM.

(a) IN GENERAL.—There is established in the Department of the Interior the Connecticut River Grants and Technical Assistance Program.

(b) PURPOSE.—The purpose of the program is to provide financial and technical assistance to the States, through the Commissions, to improve management of the watershed in accordance with the management plan.

(c) FINANCIAL AND TECHNICAL ASSISTANCE.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary may provide financial and technical assistance to the Commissions in furtherance of the purposes of this title.

(2) LIMITATION.—No financial assistance shall be provided under this title until the date on which the Secretary has approved criteria for financial assistance in accordance with subsection (d).

(d) CRITERIA.—

(1) DEVELOPMENT.—The Commissions shall develop criteria for—

(A) prioritizing and determining the eligibility of applicants for financial and technical assistance under the program; and

(B) reviewing and prioritizing applications for financial and technical assistance under the program.

(2) REVIEW; APPROVAL.—

(A) SUBMISSION.—The Commissions shall submit the criteria developed under paragraph (1) to the Secretary for review.

(B) APPROVAL OR DISAPPROVAL.—

(i) IN GENERAL.—Not later than 180 days after the date on which the Commissions submit the criteria under subparagraph (A), the Secretary shall approve or disapprove the criteria.

(ii) DISAPPROVAL.—If the Secretary disapproves the criteria under clause (i), the Secretary shall—

(I) advise the Commissions of the reasons for disapproval;

(II) make recommendations for revisions to the criteria; and

(III) not later than 180 days after the date on which the Commissions submit revised criteria to the Secretary, approve or disapprove the revised criteria.

(C) CONSIDERATIONS.—In reviewing the criteria submitted under this paragraph, the Secretary shall consider the extent to which the criteria—

(i) are consistent with the purposes and goals of the management plan; and

(ii) provide for protection of the watershed, including the natural, cultural, historic, and recreational resources within the watershed.

(e) AUTHORITIES OF THE COMMISSIONS.—The Commissions may use funds made available under this title to provide financial and technical assistance to State and local governments, nonprofit organizations, and other public and private entities to protect the watershed in accordance with the approved criteria and consistent with the management plan.

SEC. 4203. FUNDING LIMITATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out this title, subject to the limitations of section 5201 applicable to national heritage areas.

(b) COST-SHARING REQUIREMENT.—

(1) IN GENERAL.—The Federal share of the total cost of any activity under this title shall be not more than 50 percent of the total cost.

(2) FORM.—The non-Federal contribution may be in the form of in-kind contributions of goods or services fairly valued.

SEC. 4204. TERMINATION OF AUTHORITY.

The authority of the Secretary to provide financial assistance under this title terminates on the date that is 10 years after the date of enactment of this Act.

TITLE XLIII—ABANDONED MINE RECLAMATION PAYMENTS

SEC. 4301. ABANDONED MINE RECLAMATION.

(a) RECLAMATION FEE.—Section 402(g)(6)(A) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(g)(6)(A)) is amended by inserting ''and section 411(h)(1)'' after ''paragraphs (1) and (5)''.

(b) FILLING VOIDS AND SEALING TUNNELS.—Section 409(b) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1239(b)) is amended by inserting ''and section 411(h)(1)'' after ''section 402(g)''.

(c) USE OF FUNDS.—Section 411(h)(1)(D)(ii) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1240a(h)(1)(D)(ii)) is amended by striking ''section 403'' and inserting ''section 402(g)(6), 403, or 409''.

TITLE XLIV—PUBLIC LANDS SERVICE CORPS AMENDMENTS

SEC. 4401. AMENDMENT TO SHORT TITLE.

Section 201 of the Public Lands Corps Act of 1993 (16 U.S.C. 1701 note; 107 Stat. 848) is amended to read as follows:

''SEC. 201. SHORT TITLE; REFERENCES.

''(a) SHORT TITLE.—This title may be cited as the 'Public Lands Service Corps Act of 1993'.

''(b) REFERENCES.—Any reference contained in any law, regulation, document, paper, or other record of the United States to the 'Public Lands Corps Act of 1993' shall be considered to be a reference to the 'Public Lands Service Corps Act of 1993'.''.

SEC. 4402. REFERENCES.

A reference in this title to ''the Act'' is a reference to the Public Lands Service Corps Act of 1993 (16 U.S.C. 1721 et seq.; title II of Public Law 91–378).

SEC. 4403. AMENDMENTS TO THE PUBLIC LANDS SERVICE CORPS ACT OF 1993.

(a) NAME AND PROJECT DESCRIPTION CHANGES.—The Act is amended—

(1) in the title heading, by striking ''**PUBLIC LANDS CORPS**'' and inserting ''**PUBLIC LANDS SERVICE CORPS**'';

(2) in section 204 (16 U.S.C. 1723), in the heading, by striking ''public lands corps'' and inserting ''public lands service corps'';

(3) in section 210(a)(2) (16 U.S.C. 1729(a)(2)), in the heading, by striking ''PUBLIC LANDS'';

(4) by striking ''Public Lands Corps'' each place it appears and inserting ''Corps'';

(5) by striking ''conservation center'' each place it appears and inserting ''residential conservation center'';

(6) by striking ''conservation centers'' each place it appears and inserting ''residential conservation centers'';

(7) by striking ''appropriate conservation project'' each place it appears and inserting ''appropriate natural and cultural resources conservation project''; and

(8) by striking ''appropriate conservation projects'' each place it appears and inserting ''appropriate natural and cultural resources conservation projects''.

(b) FINDINGS.—Section 202(a) (16 U.S.C. 1721(a)) of the Act, as amended by subsection (a), is amended—

(1) in paragraph (1)—

(A) by striking ''Corps can benefit'' and inserting ''conservation corps can benefit''; and

(B) by striking ''the natural and cultural'' and inserting ''natural and cultural'';

(2) by redesignating paragraphs (2) and (3) as paragraphs (4) and (5), respectively;

(3) by inserting after paragraph (1) the following:

''(2) Participants in conservation corps receive meaningful education and training, and their experience with conservation corps provides preparation for careers in public service.

''(3) Young men and women who participate in the rehabilitation and restoration of the natural, cultural, historic, archaeological, recreational, and scenic treasures of the United States will gain an increased appreciation and understanding of the public lands and heritage of the United States, and of the value of public service, and are likely to become life-long advocates for those values.'';

(4) in paragraph (4) (as redesignated by paragraph (2)), by inserting '', cultural, historic, archaeological, recreational, and scenic'' after ''Many facilities and natural''; and

(5) by adding at the end the following:

''(6) The work of conservation corps can benefit communities adjacent to public lands and facilities through renewed civic engagement and participation by corps participants and those they serve, improved student achievement, and restoration and rehabilitation of public assets.''.

(c) PURPOSE.—Section 202(b) (16 U.S.C. 1721(b)) of the Act is amended to read as follows:

''(b) PURPOSES.—The purposes of this Act are—

''(1) to introduce young men and women to public service while furthering their understanding and appreciation of the natural, cultural, historic, archaeological, recreational, and scenic resources of the United States;

''(2) to facilitate training and recruitment opportunities in which service is credited as qualifying experience for careers in the management of such resources;

''(3) to instill in a new generation of young men and women from across the United States, including young men and women from diverse backgrounds, the desire to seek careers in resource stewardship and public service by allowing them to work directly with professionals in agencies responsible for the management of the natural, cultural, historic, archaeological, recreational, and scenic resources of the United States;

''(4) to perform, in a cost-effective manner, appropriate natural and cultural resources conservation projects where such projects are not being performed by existing employees;

''(5) to assist State and local governments and Indian tribes in performing research and public education tasks associated with the conservation of natural, cultural, historic, archaeological, recreational, and scenic resources;

''(6) to expand educational opportunities on public lands and by rewarding individuals who participate in conservation corps with an increased ability to pursue higher education and job training;

''(7) to promote public understanding and appreciation of the missions and the natural and cultural resources conservation work of the participating Federal agencies through training opportunities, community service and outreach, and other appropriate means; and

''(8) to create a grant program for Indian tribes to establish the Indian Youth Service Corps so that Indian youth can benefit from carrying out projects on Indian lands that the Indian tribes and communities determine to be priorities.''.

(d) DEFINITIONS.—Section 203 (16 U.S.C. 1722) of the Act is amended—

(1) by redesignating paragraphs (3) through (7), (8) through (10), and (11) through (13) as paragraphs (5) through (9), (11) through (13), and (15) through (17), respectively;

(2) by striking paragraphs (1) and (2) and inserting the following:

''(1) APPROPRIATE NATURAL AND CULTURAL RESOURCES CONSERVATION PROJECT.—The term 'appropriate natural and cultural resources conservation project' means any project for the conservation, restoration, construction, or rehabilitation of natural, cultural, historic, archaeological, recreational, or scenic resources.

''(2) CONSULTING INTERN.—The term 'consulting intern' means a consulting intern selected under section 206(a)(2).

''(3) CORPS AND PUBLIC LANDS SERVICE CORPS.—The terms 'Corps' and 'Public Lands Service Corps' mean the Public Lands Service Corps established under section 204(a).

''(4) CORPS PARTICIPANT.—The term 'Corps participant' means an individual enrolled—

''(A) in the Corps or the Indian Youth Service Corps; or

''(B) as a resource assistant or consulting intern.'';

(3) by inserting after paragraph (9) (as redesignated by paragraph (1)) the following:

''(10) INDIAN YOUTH SERVICE CORPS.—The term 'Indian Youth Service Corps' means a qualified youth or conservation corps established under section 207 that—

''(A) enrolls individuals between the ages of 15 and 25, inclusive, a majority of whom are Indians; and

''(B) is established pursuant to a tribal resolution that describes the agreement between the Indian tribe and the qualified youth or conservation corps to operate an Indian Youth Service Corps program for the benefit of the members of the Indian tribe.'';

(4) by amending paragraph (12) (as redesignated by paragraph (1)) to read as follows:

''(12) PUBLIC LANDS.—The term 'public lands' means any land or water (or interest therein) owned or administered by the United States, including those areas of coastal and ocean waters, the Great Lakes and their connecting waters, and submerged lands over which the United States exercises jurisdiction, except that such term does not include Indian lands.'';

(5) by amending paragraph (13) (as redesignated by paragraph (1)) as follows:

(A) in subparagraph (A)—

(i) by striking ''full-time,'';

(ii) by inserting ''on eligible service lands'' after ''resource setting''; and

(iii) by striking ''16'' and inserting ''15'';

(B) in subparagraph (B), by striking ''and'' at the end;

(C) in subparagraph (C), by striking the period at the end and inserting ''; and''; and

(D) by adding at the end the following:

''(D) makes available for audit for each fiscal year for which the qualified youth or conservation corps receives Federal funds under this Act, all information pertaining to the expenditure of the funds, any matching funds, and participant demographics.'';

(6) by inserting after paragraph 13 (as redesignated by paragraph (1)) the following:

''(14) RESIDENTIAL CONSERVATION CENTERS.—The term 'residential conservation centers' means the facilities authorized under section 205.'';

(7) in paragraph (15) (as redesignated by paragraph (1)), by striking ''206'' and inserting ''206(a)(1)''; and

(8) in paragraph (16) (as redesignated by paragraph (1))—

(A) in subparagraph (A), by striking ''and'' at the end;

(B) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(C) with respect to the National Marine Sanctuary System, coral reefs, and other coastal, estuarine, and marine habitats, and other lands and facilities administered by the National Oceanic and Atmospheric Administration, the Secretary of Commerce.''.

(e) PUBLIC LANDS SERVICE CORPS PROGRAM.—Section 204 of the Act (16 U.S.C. 1723), as amended by subsection (a), is amended—

(1) by redesignating subsections (b) and (c) and subsections (d) through (f) as subsections (c) and (d) and subsections (f) through (h), respectively;

(2) by striking subsection (a) and inserting the following:

''(a) ESTABLISHMENT OF PUBLIC LANDS SERVICE CORPS.—There is established in the Department of the Interior, the Department of Agriculture, and the Department of Commerce a Public Lands Service Corps.

''(b) ESTABLISHMENT OF CORPS OFFICE; COORDINATORS; LIAISON.—

''(1) ESTABLISHMENT OF OFFICES.—

''(A) DEPARTMENT OF THE INTERIOR.—The Secretary of the Interior shall establish a department-level office to coordinate the Corps activities within the Department of the Interior.

''(B) DEPARTMENT OF AGRICULTURE.—The Secretary of Agriculture shall establish within the Forest Service an office to coordinate the Corps activities within that agency.

''(C) DEPARTMENT OF COMMERCE.—The Secretary of Commerce shall establish within the National Oceanic and Atmospheric Administration an office to coordinate the Corps activities within that agency.

''(2) ESTABLISHMENT OF COORDINATORS.—The Secretary shall designate a Public Lands Service Corps coordinator for each agency under the jurisdiction of the Secretary that administers Corps activities.

''(3) ESTABLISHMENT OF LIAISON.—The Secretary of the Interior shall establish an Indian Youth Service Corps liaison that will—

''(A) provide outreach to Indian tribes about opportunities for establishing Corps and Indian Youth Service Corps programs; and

''(B) coordinate with the Tribal Liaison of the Corporation for National Service to identify and establish Corps and Indian Youth Service Corps opportunities for Indian youth.'';

(3) by amending subsection (c) (as redesignated by paragraph (1)) to read as follows:

''(c) PARTICIPANTS.—

''(1) IN GENERAL.—The Secretary may enroll in the Corps individuals who are—

''(A) hired by an agency under the jurisdiction of the Secretary to perform work authorized under this Act; or

''(B) members of a qualified youth or conservation corps with which the Secretary has entered into a cooperative agreement to perform work authorized under this Act.

''(2) RESOURCE ASSISTANTS AND CONSULTING INTERNS.—The Secretary may also enroll in the Corps resource assistants and consulting interns in accordance with section 206(a).

''(3) ELIGIBILITY REQUIREMENTS.—To be eligible for enrollment as a Corps participant, an individual shall—

''(A) be between the ages of 15 and 25, inclusive; and

''(B) satisfy the requirements of section 137(a)(5) of the National and Community Service Act of 1990 (42 U.S.C. 12591(a)(5)).

''(4) TERMS.—Each Corps participant may be enrolled in the Corps for a term of up to 2 years of service, which may be served over a period that exceeds 2 calendar years.

''(5) CIVIL SERVICE.—An individual may be enrolled as a Corps participant without regard to the civil service and classification laws, rules, or regulations of the United States.

''(6) PREFERENCE.—The Secretary may establish a preference for the enrollment as Corps participants individuals who are economically, physically, or educationally disadvantaged.'';

(4) in subsection (d) (as redesignated by paragraph (1))—

(A) in paragraph (1)—

(i) by striking ''contracts and''; and

(ii) by striking ''subsection (d)'' and inserting ''subsection (f)'';

(B) by striking paragraph (2); and

(C) by inserting after paragraph (1) the following:

''(2) RECRUITMENT.—The Secretary shall carry out, or enter into cooperative agreements to provide, a program to attract eligible youth to the Corps by publicizing Corps opportunities through high schools, colleges, employment centers, electronic media, and other appropriate institutions and means.

''(3) PREFERENCE.—In entering into cooperative agreements under paragraph (1) or awarding competitive grants to Indian tribes or tribally authorized organizations under section 207, the Secretary may give preference to qualified youth or conservation corps that are located in specific areas where a substantial portion of members are economically, physically, or educationally disadvantaged.'';

(5) by inserting after subsection (d) (as redesignated by paragraph (1)) the following:

''(e) TRAINING.—

''(1) IN GENERAL.—The Secretary shall establish a training program based at appropriate residential conservation centers or at other suitable regional Federal or other appropriate facilities or sites to provide training for Corps participants.

''(2) REQUIREMENTS.—In establishing a training program under paragraph (1), the Secretary shall—

''(A) ensure that the duration and comprehensiveness of the training program shall be commensurate with the projects Corps participants are expected to undertake;

''(B) develop department-wide standards for the program that include training in—

''(i) resource stewardship;

''(ii) health and safety;

''(iii) ethics for individuals in public service;

''(iv) teamwork and leadership; and

''(v) interpersonal communications;

''(C) direct the participating agencies within the Department of the Interior, the Forest Service in the case of the Department of Agriculture, and the National Oceanic and Atmospheric Administration in the case of the Department of Commerce, to develop agency-specific training guidelines to ensure that Corps participants are appropriately informed about matters specific to that agency, including—

''(i) the history and organization of the agency;

''(ii) the mission of the agency; and

''(iii) any agency-specific standards for the management of natural, cultural, historic, archaeological, recreational, and scenic resources; and

''(D) take into account training already received by Corps participants enrolled from qualified youth or conservation corps.'';

(6) in subsection (f) (as redesignated by paragraph (1))—

(A) in paragraph (1)—

(i) in the heading, by striking ''IN GENERAL.—'' and inserting ''USE OF CORPS; PROJECTS.—'';

(ii) by striking ''The Secretary may utilize the Corps or any qualified youth or conservation corps to carry out'' and inserting the following:

''(A) IN GENERAL.—The Secretary may use the Corps to carry out, with appropriate supervision and training,'';

(iii) by striking ''on public lands'' and inserting on ''on eligible service lands''; and

(iv) by adding at the end the following:

''(B) PROJECTS.—Appropriate natural and cultural resources conservation projects carried out under this section may include—

''(i) protecting, restoring, or enhancing ecosystem components to promote species recovery, improve biological diversity, enhance productivity and carbon sequestration, and enhance adaptability and resilience of eligible service lands and resources to climate change and other natural and human disturbances;

''(ii) promoting the health of eligible service lands, including—

''(I) protecting and restoring watersheds and forest, grassland, riparian, estuarine, marine, or other habitat;

''(II) reducing the risk of uncharacteristically severe wildfire and mitigating damage from insects, disease, and disasters;

''(III) controlling erosion;

''(IV) controlling and removing invasive, noxious, or nonnative species; and

''(V) restoring native species;

''(iii) collecting biological, archaeological, and other scientific data, including climatological information, species populations and movement, habitat status, and other information;

''(iv) assisting in historical and cultural research, museum curatorial work, oral history projects, documentary photography, and activities that support the creation of public works of art related to eligible service lands; and

''(v) constructing, repairing, rehabilitating, and maintaining roads, trails, campgrounds and other visitor facilities, employee housing, cultural and historic sites and structures, and other facilities that further the purposes of this Act.'';

(B) by redesignating paragraphs (2) and (3) as paragraphs (4) and (5), respectively; and

(C) by inserting after paragraph (1) the following:

''(2) VISITOR SERVICES.—The Secretary may—

''(A) enter into or amend an existing cooperative agreement with a cooperating association, educational institution, friends group, or similar nonprofit partner organization for the purpose of providing training and work experience to Corps participants in areas such as sales, office work, accounting, and management, provided that the work experience directly relates to the conservation and management of eligible service lands; and

''(B) allow Corps participants to help promote visitor safety and enjoyment of eligible service lands, and assist in the gathering of visitor use data.

''(3) INTERPRETATION.—The Secretary may permit Corps participants to provide interpretation or education services for the public under the direct and immediate supervision of an agency employee—

''(A) to provide orientation and information services to visitors;

''(B) to assist agency employees in the delivery of interpretive or educational programs where audience size, environmental conditions, safety, or other factors make such assistance desirable;

''(C) to present programs that relate the personal experience of the Corps participants for the purpose of promoting public awareness of the Corps, the role of the Corps in

public land management agencies, and the availability of the Corps to potential participants; and

''(D) to create nonpersonal interpretive products, such as website content, Junior Ranger program books, printed handouts, and audiovisual programs.'';

(7) in subsection (g) (as redesignated by paragraph (1))—

(A) in the matter preceding the first paragraph, by striking ''those projects which'' and inserting ''priority projects and other projects that''; and

(B) by striking paragraph (2) and inserting the following:

''(2) will instill in Corps participants a work ethic and a sense of public service;''; and

(8) by adding at the end the following:

''(i) OTHER PARTICIPANTS.—The Secretary may allow volunteers from other programs administered or designated by the Secretary to participate as volunteers in projects carried out under this section.

''(j) CRIMINAL HISTORY CHECKS.—

''(1) IN GENERAL.—The requirements of section 189D(b) of the National and Community Service Act of 1990 (42 U.S.C. 12645g(b)) shall apply to each individual age 18 or older seeking—

''(A) to become a Corps participant;

''(B) to receive funds authorized under this Act; or

''(C) to supervise or otherwise have regular contact with Corps participants in activities authorized under this Act.

''(2) ELIGIBILITY PROHIBITION.—If any of paragraphs (1) through (4) of section 189D(c) of the National and Community Service Act of 1990 (42 U.S.C. 12645g(c)(1)–(4)) apply to an individual described in paragraph (1), that individual shall not be eligible for the position or activity described in paragraph (1), unless the Secretary provides an exemption for good cause.''.

(f) RESIDENTIAL CONSERVATION CENTERS AND PROGRAM SUPPORT.—Section 205 (16 U.S.C. 1724) of the Act is amended—

(1) in the section heading, by striking ''conservation'' and inserting ''residential conservation'';

(2) in subsection (a)—

(A) by amending paragraph (1) to read as follows:

''(1) IN GENERAL.—The Secretary may establish residential conservation centers for—

''(A) such housing, food service, medical care, transportation, and other services as the Secretary deems necessary for Corps participants; and

''(B) the conduct of appropriate natural and cultural resources conservation projects under this Act.'';

(B) by striking paragraph (2);

(C) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively;

(D) in paragraph (2) (as redesignated by subparagraph (C)), in the heading, by striking ''FOR CONSERVATION CENTERS''; and

(E) in paragraph (3) (as redesignated by subparagraph (C)), by striking ''a State or local government agency'' and inserting ''another Federal agency, State, local government,'';

(3) in subsection (b)—

(A) by striking ''The Secretary'' and inserting the following:

''(1) IN GENERAL.—The Secretary''; and

(B) by adding at the end the following:

''(2) TEMPORARY HOUSING.—The Secretary may make arrangements with another Federal agency, State, local government, or private organization to provide temporary housing for Corps participants as needed and available.

''(3) TRANSPORTATION.—In project areas where Corps participants can reasonably be expected to reside at their own homes, the Secretary may fund or provide transportation to and from project sites.'';

(4) by redesignating subsection (d) as subsection (f);

(5) by inserting after subsection (c) the following:

''(d) FACILITIES.—The Secretary may, as an appropriate natural and cultural resources conservation project, direct Corps participants to aid in the construction or rehabilitation of residential conservation center facilities, including housing.

''(e) MENTORS.—The Secretary may recruit from programs, such as Federal volunteer and encore service programs, and from veterans groups, military retirees, and active duty personnel, such adults as may be suitable and qualified to provide training, mentoring, and crew-leading services to Corps participants.''; and

(6) in subsection (f) (as redesignated by paragraph (4)), by striking ''that are appropriate'' and all that follows through the period and inserting ''that the Secretary determines to be necessary for a residential conservation center.''.

(g) RESOURCE ASSISTANTS AND CONSULTING INTERNS.—Section 206 of the Act (16 U.S.C. 1725) is amended—

(1) in the section heading, by inserting ''and consulting interns'' before the period;

(2) by striking subsections (a) and (b) and inserting the following:

''(a) AUTHORIZATION.—

''(1) RESOURCE ASSISTANTS.—

''(A) IN GENERAL.—The Secretary may provide individual placements of resource assistants with any agency under the jurisdiction of the Secretary that carries out appropriate natural and cultural resources conservation projects to carry out research or resource protection activities on behalf of the agency.

''(B) ELIGIBILITY.—To be eligible for selection as a resource assistant, an individual shall be at least 17 years of age.

''(C) PREFERENCE.—In selecting resource assistants for placement under this paragraph, the Secretary shall give a preference to individuals who are enrolled in an institution of higher education or are recent graduates from an institution of higher education, with particular attention given to ensuring full representation of women and participants from Historically Black Colleges and Universities, Hispanic-serving institutions, and Tribal Colleges and Universities.

''(2) CONSULTING INTERNS.—

''(A) IN GENERAL.—The Secretary may provide individual placements of consulting interns with any agency under the jurisdiction of the Secretary that carries out appropriate natural and cultural resources conservation projects to carry out management analysis activities on behalf of the agency.

''(B) ELIGIBILITY.—To be eligible for selection as a consulting intern, an individual shall be enrolled in, and have completed at least 1 full year at, a graduate or professional school that has been accredited by an accrediting body recognized by the Secretary of Education.

''(b) USE OF EXISTING NONPROFIT ORGANIZATIONS.—

''(1) IN GENERAL.—Whenever 1 or more nonprofit organizations can provide appropriate recruitment and placement services to fulfill the requirements of this section, the Secretary may implement this section through such organizations.

''(2) EXPENSES.—Participating organizations shall contribute to the expenses of providing and supporting the resource assistants or consulting interns from sources of funding other than the Secretary, at a level of not less than 25 percent of the total costs (15 percent of which may be from in-kind sources) of each participant in the resource assistant or consulting intern program who has been recruited and placed through that organization.

''(3) REPORTING.—Each participating organization shall be required to submit an annual report evaluating the scope, size, and quality of the program, including the value of work contributed by the resource assistants and consulting interns, to the mission of the agency.''.

(h) TECHNICAL AMENDMENT.—The Act is amended by redesignating sections 207 through 211 (16 U.S.C. 1726 through 1730) as sections 209 through 213, respectively.

(i) INDIAN YOUTH SERVICE CORPS.—The Act is amended by inserting after section 206 (16 U.S.C. 1725) the following:

''SEC. 207. INDIAN YOUTH SERVICE CORPS.

''(a) AUTHORIZATION OF COOPERATIVE AGREEMENTS AND COMPETITIVE GRANTS.—The Secretary is authorized to enter into cooperative agreements with, or make competitive grants to, Indian tribes and qualified youth or conservation corps for the establishment and administration of Indian Youth Service Corps programs to carry out appropriate natural and cultural resources conservation projects on Indian lands.

''(b) APPLICATION.—To be eligible to receive assistance under this section, an Indian tribe or a qualified youth or conservation corps shall submit to the Secretary an application in such manner and containing such information as the Secretary may require, including—

''(1) a description of the methods by which Indian youth will be recruited for and retained in the Indian Youth Service Corps;

''(2) a description of the projects to be carried out by the Indian Youth Service Corps;

''(3) a description of how the projects were identified; and

''(4) an explanation of the impact of, and the direct community benefits provided by, the proposed projects.''.

(j) GUIDANCE.—The Act is amended by inserting after section 207 (as amended by subsection (i)) the following:

''SEC. 208. GUIDANCE.

''Not later than 18 months after funds are made available to the Secretary to carry out this Act, the Secretary shall issue guidelines for the management of programs under the jurisdiction of the Secretary that are authorized under this Act.''.

(k) LIVING ALLOWANCES AND TERMS OF SERVICE.—Section 209 of the Act (16 U.S.C. 1726) (as redesignated by subsection (h)) is amended by striking subsections (a), (b), and (c) and inserting the following:

''(a) LIVING ALLOWANCES.—

''(1) IN GENERAL.—The Secretary shall provide each Corps participant with a living allowance in an amount established by the Secretary.

''(2) COST-OF-LIVING DIFFERENTIAL; TRAVEL COSTS.—The Secretary may—

''(A) apply a cost-of-living differential to the living allowances established under paragraph (1); and

''(B) if the Secretary determines reimbursement to be appropriate, reimburse Corps participants for travel costs at the beginning and end of the term of service of the Corps participants.

''(b) TERMS OF SERVICE.—

''(1) IN GENERAL.—Each Corps participant shall agree to participate for such term of service as may be established by the Secretary.

''(2) CONSULTATIONS.—With respect to the Indian Youth Service Corps, the term of service shall be established in consultation with the affected Indian tribe or tribally authorized organization.

''(c) HIRING PREFERENCE AND FUTURE EMPLOYMENT.—The Secretary may—

''(1) grant to a Corps participant credit for time served as a Corps participant, which may be used toward future Federal hiring;

''(2) provide to a former participant of the Corps or the Indian Youth Service Corps noncompetitive hiring status for a period of not more than 2 years after the date on which the service of the candidate in the Corps or the Indian Youth Service Corps was complete, if the candidate—

''(A) has served a minimum of 960 hours on an appropriate natural or cultural resources conservation project that included at least 120 hours through the Corps or the Indian Youth Service Corps; and

''(B) meets Office of Personnel Management qualification standards for the position for which the candidate is applying;

''(3) provide to a former resource assistant or consulting intern noncompetitive hiring status for a period of not more than 2 years after the date on which the individual has completed an undergraduate or graduate degree, respectively, from an accredited institution, if the candidate—

''(A) successfully fulfilled the resource assistant or consulting intern program requirements; and

''(B) meets Office of Personnel Management qualification standards for the position for which the candidate is applying; and

''(4) provide, or enter into contracts or cooperative agreements with qualified employment agencies to provide, alumni services such as job and education counseling, referrals, verification of service, communications, and other appropriate services to Corps participants who have completed the term of service.''.

(l) NATIONAL SERVICE EDUCATIONAL AWARDS.—Section 210 (16 U.S.C. 1727) of the Act (as redesignated by subsection (h)) is amended—

(1) in subsection (a) (as amended by subsection (a)(4)), in the first sentence—

(A) by striking ''participant in the Corps or a resource assistant'' and inserting ''Corps participant''; and

(B) by striking ''participant or resource assistant'' and inserting ''Corps participant''; and

(2) in subsection (b)—

(A) by striking ''either participants in the Corps or resource assistants'' and inserting ''Corps participants''; and

(B) by striking ''or a resource assistant''.

(m) NONDISPLACEMENT.—Section 211 of the Act (16 U.S.C. 1728) (as redesignated by subsection (h)) is amended by striking ''activities carried out'' and all that follows through the period and inserting ''Corps participants.''.

(n) FUNDING.—Section 212 of the Act (16 U.S.C. 1729) (as redesignated by subsection (h)) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) in the second sentence, by striking ''non-federal sources'' and inserting ''sources other than the Secretary''; and

(ii) by inserting after the second sentence the following: ''The Secretary may pay up to 90 percent of the costs of a project if the Secretary determines that the reduction is necessary to enable participation from a greater range of organizations or individuals.''; and

(B) in paragraph (2), by inserting ''or Indian Youth Service Corps'' after ''Corps'' each place it appears;

(2) by amending subsection (b) to read as follows:

''(b) FUNDS AVAILABLE UNDER NATIONAL AND COMMUNITY SERVICE ACT.—To carry out this Act, the Secretary shall be eligible to apply for and receive assistance under section 121(b) of the National and Community Service Act (42 U.S.C. 12571(b)).''; and

(3) in subsection (c)—

(A) by striking ''section 211'' and inserting ''section 213''; and

(B) by inserting ''or Indian Youth Service Corps'' after ''Corps''.

(o) AUTHORIZATION OF APPROPRIATIONS.—Section 213 of the Act (16 U.S.C. 1730) (as redesignated by subsection (h)) is amended—

(1) by amending subsection (a) to read as follows:

''(a) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to carry out this Act.'';

(2) by striking subsection (b); and

(3) by redesignating subsection (c) as subsection (b).

TITLE XLV—PATENT MODIFICATIONS AND VALIDATIONS

SEC. 4501. WHITEFISH LIGHTHOUSE PATENT MODIFICATION, MICHIGAN.

(a) MODIFICATION OF LAND GRANT PATENT ISSUED BY SECRETARY OF THE INTERIOR.—The Secretary of the Interior shall modify the matter under the heading ''SUBJECT ALSO TO THE FOLLOWING CONDITIONS'' of paragraph 6 of United States Patent Number 61–2000–0007 by striking ''Whitefish Point Comprehensive Plan of October 1992 or for a gift shop'' and inserting ''Human Use/Natural Resource Plan for Whitefish Point, dated December 2002''.

(b) REVIEW OF MODIFICATIONS AND UNDERTAKINGS.—

(1) MODIFICATIONS TO HUMAN USE/NATURAL RESOURCE PLAN FOR WHITEFISH POINT.—Each modification to the Human Use/Natural Resource Plan for Whitefish Point, dated December 2002, described in the matter under the heading ''SUBJECT ALSO TO THE FOLLOWING CONDITIONS'' of paragraph 6 of United States Patent Number 61–2000–0007 shall be subject to the review process established under—

(A) section 106 of the National Historic Preservation Act (16 U.S.C. 470f); and

(B) part 800 of title 36, Code of Federal Regulations.

(2) FEDERAL OR FEDERALLY ASSISTED UNDERTAKINGS.—Each Federal or federally assisted undertaking (as described in section 106 of the National Historic Preservation Act (16 U.S.C. 470f)) proposed to be carried out within the boundaries of the Whitefish Point Light Station shall be subject to the review process established under—

(A) section 106 of the National Historic Preservation Act (16 U.S.C. 470f); and

(B) part 800 of title 36, Code of Federal Regulations.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The modification of United States Patent Number 61–2000–0007 in accordance with subsection (b) shall become effective on the date of the recording of the modification in the Office of the Register of Deeds of Chippewa County of the State of Michigan.

(2) ENDORSEMENT.—The Office of the Register of Deeds of Chippewa County of the State of Michigan is requested to endorse on the recorded copy of United States Patent Number 61–2000–0007 the fact that the Patent Number has been modified in accordance with this title.

SEC. 4502. SOUTHERN NEVADA PATENT VALIDATION.

Patent No. 27–2005–0081 and its associated land reconfiguration issued by the Bureau of Land Management on February 18, 2005, is hereby affirmed and validated as having been issued pursuant to and in compliance with the provisions of the Nevada-Florida Land Exchange Authorization Act of 1988 (Public Law 100–275), the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) for the benefit of the desert tortoise and other species and their habitat to increase the likelihood of their recovery. The process utilized by the United States Fish and Wildlife Service and the Bureau of Land Management in reconfiguring the lands as shown on Exhibit 1–4 of the Final Environmental Impact Statement for the Planned Development Project MSHCP, Lincoln County, NV (FWS–R8–ES–2008–N0136) and the reconfiguration provided for in Special Condition 10 of Army Corps of Engineers Permit No. 000005042 are hereby ratified.

TITLE XLVI—MISCELLANEOUS

SEC. 4601. LAND AND WATER CONSERVATION FUND.

Section 2 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–5) is amended—

(1) in the matter preceding subsection (a), by striking ''During the period ending September 30, 2015, there'' and inserting ''There''; and

(2) in subsection (c)(1), by striking ''through September 20, 2015''.

SEC. 4602. UNITED STATES FISH AND WILDLIFE SERVICE TECHNICAL AMENDMENT.

Section 3 of the Fish and Wildlife Act of 1956 (16 U.S.C. 742b) is amended in subsections (a) and (b) by striking ''Assistant Secretary for Fish and Wildlife'' each place it appears and inserting ''Assistant Secretary for Fish and Wildlife and Parks''.

SEC. 4603. PUBLIC LAND ORDER 2568 TECHNICAL MODIFICATION.

(a) DEFINITIONS.—In this section:

(1) PUBLIC LAND ORDER 2568.—The term ''Public Land Order 2568'' means Public Land Order 2568, dated December 19, 1961.

(2) WITHDRAWN LAND.—The term ''withdrawn land'' means land comprising approximately 16,960 acres of land located within the public land reserved (as of the day before the date of enactment of this Act) for the use of the Department of Energy under Public Land Order 2568, as generally depicted on the map entitled ''Nevada Solar Demonstration Zone'', dated June 30, 2010.

(b) LAND WITHDRAWAL, JURISDICTION, AND RESERVATION.—

(1) LAND WITHDRAWAL.—Subject to valid existing rights and except as otherwise provided in this section, all public land and interests in the withdrawn land are withdrawn from all forms of entry, appropriation, and disposal under the public land laws, including the mining laws and mineral and geothermal leasing laws.

(2) TRANSFER OF JURISDICTION.—Effective beginning on the date of enactment of this Act and except as otherwise provided in this section, jurisdiction over the withdrawn land shall be transferred from the Secretary of the Interior to the Secretary of Energy.

(3) RESERVATION.—The withdrawn land shall be withdrawn for—

(A) the purpose of establishing a program to support the testing, evaluation, demonstration, and commercial operation of solar energy technologies by private and public entities, including other Federal agencies; and

(B) the use of the Secretary of Energy to carry out the missions of the Department of Energy and the National Nuclear Security Administration and other uses related to those missions.

(c) LEGAL DESCRIPTION AND MAP.—Not later than 30 days after the date of enactment of this Act, the Secretary of the Interior shall—

(1) publish in the Federal Register a notice containing a legal description of the withdrawn land; and

(2) file copies of the map described in paragraph (1) and the legal description of the withdrawn land with—

(A) Congress;

(B) the Secretary of Energy; and
(C) the Governor of the State of Nevada.
(d) TECHNICAL CORRECTIONS.—
(1) IN GENERAL.—The map and legal description described in subsection (c) shall have the same force and effect as if the map and legal description were included in this section.
(2) ERRORS.—The Secretary of the Interior may correct clerical and typographical errors in the map and legal description.
(e) WATER RIGHTS.—
(1) IN GENERAL.—Nothing in this section shall result in any forfeiture of any water rights acquired or exercised by the United States prior to the date of enactment of this Act.
(2) ADDITIONAL WATER RIGHTS.—The United States shall follow the procedural and substantive requirements of applicable State law in obtaining and holding under this section any water rights not in existence on the date of enactment of this Act.
(f) MANAGEMENT OF WITHDRAWN LAND.—The Secretary of Energy shall—
(1) be responsible for the management of the withdrawn land; and
(2) have the authority to issue land use authorizations for the withdrawn land.
(g) MANAGEMENT PLAN.—Not later than 1 year after the date of enactment of this Act, the Secretary of Energy shall develop a management plan for the withdrawn land that—
(1) establishes criteria for approving testing, evaluation, demonstration, and commercial operation of solar energy projects and related infrastructure by private and public entities, including other Federal agencies infrastructure on the withdrawn land;
(2) establishes a fee or royalty, as appropriate, for commercial solar energy generating facilities on the withdrawn land; and
(3) uses any fee or royalty collected pursuant to paragraph (2), without further appropriation and without fiscal year limitation, for support of activities on the withdrawn land, for purposes such as—
(A) infrastructure improvements, including electricity transmission;
(B) solar demonstration projects, including system performance verification;
(C) acquiring and managing water;
(D) education, research, and training;
(E) mitigating impacts to natural resources;
(F) land use permits and environmental studies associated with the withdrawn land; and
(G) protecting wildlife.
(h) OTHER MANAGEMENT RESPONSIBILITIES.—
(1) INFRASTRUCTURE.—The Secretary of Energy shall work with other Federal agencies, the State of Nevada, and other interested persons to ensure, to the maximum extent practicable, that adequate infrastructure is available for activities conducted on the withdrawn land.
(2) NATIONAL DEFENSE TESTING AND TRAINING.—The Secretary of Energy shall consult with the Secretary of Defense to ensure that solar energy projects or related infrastructure on, or directly related to, the withdrawn land do not significantly impede national defense testing and training.
(i) USE OF MINERAL MATERIALS.—Notwithstanding any other provision of this section, the Secretary of Energy may use, without application to the Secretary of the Interior, the sand, gravel, or similar material resources on the withdrawn land of the type subject to disposition under the Act of July 31, 1947 (commonly known as the ''Materials Act of 1947'') (30 U.S.C. 601 et seq.), if the use of the resources is required to accomplish the missions of the Department of Energy or the National Nuclear Security Administration or other uses related to those missions.

DIVISION E—NATIONAL HERITAGE AREAS

TITLE L—SUSQUEHANNA GATEWAY NATIONAL HERITAGE AREA

SEC. 5001. DEFINITIONS.

In this title:
(1) HERITAGE AREA.—The term ''Heritage Area'' means the Susquehanna Gateway National Heritage Area established by section 5002(a).
(2) LOCAL COORDINATING ENTITY.—The term ''local coordinating entity'' means the local coordinating entity for the Heritage Area designated by section 5003(a).
(3) MANAGEMENT PLAN.—The term ''management plan'' means the plan developed by the local coordinating entity under section 5004(a).
(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.
(5) STATE.—The term ''State'' means the State of Pennsylvania.

SEC. 5002. SUSQUEHANNA GATEWAY NATIONAL HERITAGE AREA.

(a) ESTABLISHMENT.—There is established the Susquehanna Gateway National Heritage Area in the State.
(b) BOUNDARIES.—The Heritage Area shall include Lancaster and York Counties, Pennsylvania.

SEC. 5003. DESIGNATION OF LOCAL COORDINATING ENTITY.

(a) LOCAL COORDINATING ENTITY.—The Susquehanna Heritage Corporation, a nonprofit organization established under the laws of the State, shall be the local coordinating entity for the Heritage Area.
(b) AUTHORITIES OF LOCAL COORDINATING ENTITY.—The local coordinating entity may, for purposes of preparing and implementing the management plan, use Federal funds made available under this title—
(1) to prepare reports, studies, interpretive exhibits and programs, historic preservation projects, and other activities recommended in the management plan for the Heritage Area;
(2) to make grants to the State, political subdivisions of the State, nonprofit organizations, and other persons;
(3) to enter into cooperative agreements with the State, political subdivisions of the State, nonprofit organizations, and other organizations;
(4) to hire and compensate staff;
(5) to obtain funds or services from any source, including funds and services provided under any other Federal program or law; and
(6) to contract for goods and services.
(c) DUTIES OF LOCAL COORDINATING ENTITY.—To further the purposes of the Heritage Area, the local coordinating entity shall—
(1) prepare a management plan for the Heritage Area in accordance with section 5004;
(2) give priority to the implementation of actions, goals, and strategies set forth in the management plan, including assisting units of government and other persons in—
(A) carrying out programs and projects that recognize and protect important resource values in the Heritage Area;
(B) encouraging economic viability in the Heritage Area in accordance with the goals of the management plan;
(C) establishing and maintaining interpretive exhibits in the Heritage Area;
(D) developing heritage-based recreational and educational opportunities for residents and visitors in the Heritage Area;
(E) increasing public awareness of and appreciation for the natural, historic, and cultural resources of the Heritage Area;
(F) restoring historic buildings that are—
(i) located in the Heritage Area; and
(ii) related to the themes of the Heritage Area; and
(G) installing throughout the Heritage Area clear, consistent, and appropriate signs identifying public access points and sites of interest;
(3) consider the interests of diverse units of government, businesses, tourism officials, private property owners, and nonprofit groups within the Heritage Area in developing and implementing the management plan;
(4) conduct public meetings at least semiannually regarding the development and implementation of the management plan; and
(5) for any fiscal year for which Federal funds are received under this title—
(A) submit to the Secretary an annual report that describes—
(i) the accomplishments of the local coordinating entity;
(ii) the expenses and income of the local coordinating entity; and
(iii) the entities to which the local coordinating entity made any grants;
(B) make available for audit all records relating to the expenditure of the Federal funds and any matching funds; and
(C) require, with respect to all agreements authorizing the expenditure of Federal funds by other organizations, that the receiving organizations make available for audit all records relating to the expenditure of the Federal funds.
(d) PROHIBITION ON ACQUISITION OF REAL PROPERTY.—
(1) IN GENERAL.—The local coordinating entity shall not use Federal funds received under this title to acquire real property or any interest in real property.
(2) OTHER SOURCES.—Nothing in this title precludes the local coordinating entity from using Federal funds from other sources for authorized purposes, including the acquisition of real property or any interest in real property.

SEC. 5004. MANAGEMENT PLAN.

(a) IN GENERAL.—Not later than 3 years after the date on which funds are first made available to carry out this title, the local coordinating entity shall prepare and submit to the Secretary a management plan for the Heritage Area.
(b) CONTENTS.—The management plan for the Heritage Area shall—
(1) include comprehensive policies, strategies, and recommendations for the conservation, funding, management, and development of the Heritage Area;
(2) take into consideration existing State, county, and local plans;
(3) specify the existing and potential sources of funding to protect, manage, and develop the Heritage Area;
(4) include an inventory of the natural, historic, cultural, educational, scenic, and recreational resources of the Heritage Area relating to the themes of the Heritage Area that should be preserved, restored, managed, developed, or maintained; and
(5) include an analysis of, and recommendations for, ways in which Federal, State, and local programs, may best be coordinated to further the purposes of this title, including recommendations for the role of the National Park Service in the Heritage Area.
(c) DISQUALIFICATION FROM FUNDING.—If a proposed management plan is not submitted to the Secretary by the date that is 3 years after the date on which funds are first made available to carry out this title, the local coordinating entity may not receive additional funding under this title until the date on which the Secretary receives the proposed management plan.
(d) APPROVAL AND DISAPPROVAL OF MANAGEMENT PLAN.—
(1) IN GENERAL.—Not later than 180 days after the date on which the local coordinating entity submits the management plan

to the Secretary, the Secretary shall approve or disapprove the proposed management plan.

(2) CONSIDERATIONS.—In determining whether to approve or disapprove the management plan, the Secretary shall consider whether—

(A) the local coordinating entity is representative of the diverse interests of the Heritage Area, including governments, natural and historic resource protection organizations, educational institutions, businesses, and recreational organizations;

(B) the local coordinating entity has provided adequate opportunities (including public meetings) for public and governmental involvement in the preparation of the management plan;

(C) the resource protection and interpretation strategies contained in the management plan, if implemented, would adequately protect the natural, historic, and cultural resources of the Heritage Area; and

(D) the management plan is supported by the appropriate State and local officials, the cooperation of which is needed to ensure the effective implementation of the State and local aspects of the management plan.

(3) DISAPPROVAL AND REVISIONS.—

(A) IN GENERAL.—If the Secretary disapproves a proposed management plan, the Secretary shall—

(i) advise the local coordinating entity, in writing, of the reasons for the disapproval; and

(ii) make recommendations for revision of the proposed management plan.

(B) APPROVAL OR DISAPPROVAL.—The Secretary shall approve or disapprove a revised management plan not later than 180 days after the date on which the revised management plan is submitted.

(e) APPROVAL OF AMENDMENTS.—

(1) IN GENERAL.—The Secretary shall review and approve or disapprove substantial amendments to the management plan in accordance with subsection (d).

(2) FUNDING.—Funds appropriated under this title may not be expended to implement any changes made by an amendment to the management plan until the Secretary approves the amendment.

SEC. 5005. RELATIONSHIP TO OTHER FEDERAL AGENCIES.

(a) IN GENERAL.—Nothing in this title affects the authority of a Federal agency to provide technical or financial assistance under any other law.

(b) CONSULTATION AND COORDINATION.—The head of any Federal agency planning to conduct activities that may have an impact on the Heritage Area is encouraged to consult and coordinate the activities with the Secretary and the local coordinating entity to the extent practicable.

(c) OTHER FEDERAL AGENCIES.—Nothing in this title—

(1) modifies, alters, or amends any law or regulation authorizing a Federal agency to manage Federal land under the jurisdiction of the Federal agency;

(2) limits the discretion of a Federal land manager to implement an approved land use plan within the boundaries of the Heritage Area; or

(3) modifies, alters, or amends any authorized use of Federal land under the jurisdiction of a Federal agency.

SEC. 5006. PRIVATE PROPERTY AND REGULATORY PROTECTIONS.

Nothing in this title—

(1) abridges the rights of any property owner (whether public or private), including the right to refrain from participating in any plan, project, program, or activity conducted within the Heritage Area;

(2) requires any property owner to permit public access (including access by Federal, State, or local agencies) to the property of the property owner, or to modify public access or use of property of the property owner under any other Federal, State, or local law;

(3) alters any duly adopted land use regulation, approved land use plan, or other regulatory authority of any Federal, State, or local agency, or conveys any land use or other regulatory authority to the local coordinating entity;

(4) authorizes or implies the reservation or appropriation of water or water rights;

(5) diminishes the authority of the State to manage fish and wildlife, including the regulation of fishing and hunting within the Heritage Area; or

(6) creates any liability, or affects any liability under any other law, of any private property owner with respect to any person injured on the private property.

SEC. 5007. EVALUATION; REPORT.

(a) IN GENERAL.—Not later than 3 years before the date on which authority for Federal funding terminates for the Heritage Area, the Secretary shall—

(1) conduct an evaluation of the accomplishments of the Heritage Area; and

(2) prepare a report in accordance with subsection (c).

(b) EVALUATION.—An evaluation conducted under subsection (a)(1) shall—

(1) assess the progress of the local coordinating entity with respect to—

(A) accomplishing the purposes of this title for the Heritage Area; and

(B) achieving the goals and objectives of the approved management plan for the Heritage Area;

(2) analyze the Federal, State, local, and private investments in the Heritage Area to determine the leverage and impact of the investments; and

(3) review the management structure, partnership relationships, and funding of the Heritage Area for purposes of identifying the critical components for sustainability of the Heritage Area.

(c) REPORT.—

(1) IN GENERAL.—Based on the evaluation conducted under subsection (a)(1), the Secretary shall prepare a report that includes recommendations for the future role of the National Park Service, if any, with respect to the Heritage Area.

(2) REQUIRED ANALYSIS.—If the report prepared under paragraph (1) recommends that Federal funding for the Heritage Area be reauthorized, the report shall include an analysis of—

(A) ways in which Federal funding for the Heritage Area may be reduced or eliminated; and

(B) the appropriate time period necessary to achieve the recommended reduction or elimination.

(3) SUBMISSION TO CONGRESS.—On completion of the report, the Secretary shall submit the report to—

(A) the Committee on Energy and Natural Resources of the Senate; and

(B) the Committee on Natural Resources of the House of Representatives.

SEC. 5008. FUNDING LIMITATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out this title, subject to the limitations of section 5201.

(b) COST-SHARING REQUIREMENT.—The Federal share of the cost of any activity carried out using funds made available under this title shall be not more than 50 percent.

SEC. 5009. TERMINATION OF AUTHORITY.

The authority of the Secretary to provide financial assistance under this title terminates on the date that is 15 years after the date of enactment of this Act.

TITLE LI—ALABAMA BLACK BELT NATIONAL HERITAGE AREA

SEC. 5101. DEFINITIONS.

In this title:

(1) NATIONAL HERITAGE AREA.—The term ''National Heritage Area'' means the Alabama Black Belt National Heritage Area established by this title.

(2) LOCAL COORDINATING ENTITY.—The term ''local coordinating entity'' means the Center for the Study of the Black Belt at the University of West Alabama.

(3) MANAGEMENT PLAN.—The term ''management plan'' means the plan prepared by the local coordinating entity for the National Heritage Area in accordance with this title.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

SEC. 5102. DESIGNATION OF ALABAMA BLACK BELT NATIONAL HERITAGE AREA.

(a) ESTABLISHMENT.—There is hereby established the Alabama Black Belt National Heritage Area in the State of Alabama.

(b) BOUNDARIES.—The National Heritage Area shall consist of sites as designated by the management plan within a core area located in Alabama, consisting of Bibb, Bullock, Butler, Choctaw, Clarke, Conecuh, Dallas, Greene, Hale, Lowndes, Macon, Marengo, Monroe, Montgomery, Perry, Pickens, Sumter, Washington, and Wilcox counties.

SEC. 5103. LOCAL COORDINATING ENTITY.

(a) DESIGNATION.—The Center for the Study of the Black Belt at the University of West Alabama shall be the local coordinating entity for the National Heritage Area.

(b) DUTIES.—To further the purposes of the National Heritage Area, the local coordinating entity shall—

(1) submit a management plan to the Secretary in accordance with this title;

(2) submit an annual report to the Secretary for each fiscal year for which the local coordinating entity receives Federal funds under this title, specifying—

(A) the specific performance goals and accomplishments of the local coordinating entity;

(B) the expenses and income of the local coordinating entity;

(C) the amounts and sources of matching funds;

(D) the amounts of non-Federal funds leveraged with Federal funds and sources of the leveraging; and

(E) grants made to any other entities during the fiscal year;

(3) make available for audit, for each fiscal year for which the local coordinating entity receives Federal funds under this title, all information pertaining to the expenditure of the funds and any matching funds; and

(4) encourage economic viability and sustainability that is consistent with the purposes of the National Heritage Area.

(c) AUTHORITIES.—For the purposes of preparing and implementing the approved management plan, the local coordinating entity may use Federal funds received under this title—

(1) to make grants to political jurisdictions, nonprofit organizations, and other parties within the National Heritage Area;

(2) to enter into cooperative agreements with or provide technical assistance to political jurisdictions, nonprofit organizations, Federal agencies, and other interested parties;

(3) to hire and compensate staff, including individuals with expertise in—

(A) natural, historical, cultural, educational, scenic, and recreational resource conservation;

(B) economic and community development; and

(C) heritage planning;

(4) to obtain funds or services from any source, including other Federal programs;

(5) to contract for goods or services; and

(6) to support activities of partners and any other activities that further the purposes of the National Heritage Area and are consistent with the approved management plan.

(d) PROHIBITION ON ACQUISITION OF REAL PROPERTY.—The local coordinating entity may not use Federal funds received under this title to acquire any interest in real property.

SEC. 5104. MANAGEMENT PLAN.

(a) REQUIREMENTS.—The management plan shall—

(1) describe comprehensive policies, goals, strategies, and recommendations for telling the story of the heritage of the area covered by the National Heritage Area and encouraging long-term resource protection, enhancement, interpretation, funding, management, and development of the National Heritage Area;

(2) include a description of actions and commitments that Federal, State, and local governments, private organizations, and citizens plan to take to protect, enhance, interpret, fund, manage, and develop the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area;

(3) specify existing and potential sources of funding or economic development strategies to protect, enhance, interpret, fund, manage, and develop the National Heritage Area;

(4) include an inventory of the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area related to the national importance and themes of the National Heritage Area that should be protected, enhanced, interpreted, funded, managed, and developed;

(5) include recommendations for resource management policies and strategies, including the development of intergovernmental and interagency agreements to protect, enhance, interpret, fund, manage, and develop the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area;

(6) describe a program for implementation of the management plan, including—

(A) performance goals;

(B) plans for resource protection, enhancement, interpretation, funding, management, and development; and

(C) specific commitments for implementation that have been made by the local coordinating entity or any Federal, State, or local government agency, organization, business, or individual;

(7) include an analysis of, and recommendations for, means by which Federal, State, and local programs may best be coordinated (including the role of the National Park Service and other Federal agencies associated with the National Heritage Area) to further the purposes of this title; and

(8) include a business plan that—

(A) describes the role, operation, financing, and functions of the local coordinating entity and of each of the major activities described in the management plan; and

(B) provides adequate assurances that the local coordinating entity has the partnerships and financial and other resources necessary to implement the management plan.

(b) DEADLINE.—

(1) IN GENERAL.—Not later than 3 years after the date on which funds are made available pursuant to this title to develop the management plan, the local coordinating entity shall submit the management plan to the Secretary for approval.

(2) TERMINATION OF FUNDING.—If the management plan is not submitted to the Secretary in accordance with paragraph (1), the local coordinating entity may not receive any additional financial assistance under this title until such time as the management plan is submitted to and approved by the Secretary.

(c) APPROVAL OF MANAGEMENT PLAN.—

(1) REVIEW.—Not later than 180 days after receiving the management plan, the Secretary shall review and approve or disapprove the management plan on the basis of the criteria listed in paragraph (3).

(2) CONSULTATION.—The Secretary shall consult with the Governor of Alabama before approving a management plan.

(3) CRITERIA FOR APPROVAL.—In determining whether to approve a management plan, the Secretary shall consider whether—

(A) the local coordinating entity—

(i) represents the diverse interests of the National Heritage Area, including Federal, State, and local governments, natural, and historical resource protection organizations, educational institutions, businesses, recreational organizations, community residents, and private property owners;

(ii) has afforded adequate opportunity for public and Federal, State, and local governmental involvement (including through workshops and public meetings) in the preparation of the management plan;

(iii) provides for at least semiannual public meetings to ensure adequate implementation of the management plan; and

(iv) has demonstrated the financial capability, in partnership with others, to carry out the management plan;

(B) the management plan—

(i) describes resource protection, enhancement, interpretation, funding, management, and development strategies which, if implemented, would adequately protect, enhance, interpret, fund, manage, and develop the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area;

(ii) would not adversely affect any activities authorized on Federal land under public applicable laws or land use plans;

(iii) demonstrates partnerships among the local coordinating entity, Federal, State, and local governments, regional planning organizations, nonprofit organizations, and private sector parties for implementation of the management plan; and

(iv) complies with the requirements of this section; and

(C) the Secretary has received adequate assurances from the appropriate State and local officials whose support is needed that the State and local aspects of the management plan will be effectively implemented.

(4) DISAPPROVAL.—

(A) IN GENERAL.—If the Secretary disapproves the management plan, the Secretary—

(i) shall advise the local coordinating entity in writing of the reasons for the disapproval; and

(ii) may make recommendations to the local coordinating entity for revisions to the management plan.

(B) DEADLINE.—Not later than 180 days after receiving a revised management plan, the Secretary shall approve or disapprove the revised management plan.

(5) AMENDMENTS.—

(A) IN GENERAL.—An amendment to the approved management plan that substantially alters such plan shall be reviewed by the Secretary and approved or disapproved in the same manner as the original management plan.

(B) IMPLEMENTATION.—The local coordinating entity shall not use Federal funds received under this title to implement a substantial amendment to the management plan until the Secretary approves the amendment.

(6) AUTHORITIES.—The Secretary may—

(A) provide technical assistance under the authority of this title for the development and implementation of the management plan; and

(B) enter into cooperative agreements with interested parties to carry out this title.

SEC. 5105. EVALUATION; REPORT.

(a) EVALUATION.—The Secretary shall conduct an evaluation of the accomplishments of the National Heritage Area. An evaluation conducted under this subsection shall—

(1) assess the progress of the local coordinating entity with respect to—

(A) accomplishing the purposes of this title for the National Heritage Area; and

(B) achieving the goals and objectives of the approved management plan;

(2) analyze the Federal, State, and local government, and private investments in the National Heritage Area to determine the impact of the investments; and

(3) review the management structure, partnership relationships, and funding of the National Heritage Area for purposes of identifying the critical components for sustainability of the National Heritage Area.

(b) REPORT.—Not later than 3 years before the date on which authority for Federal funding terminates for the National Heritage Area under this title, based on the evaluation conducted under subsection (a), the Secretary shall submit a report to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. The report shall include recommendations for the future role of the National Park Service, if any, with respect to the National Heritage Area.

SEC. 5106. RELATIONSHIP TO OTHER FEDERAL AGENCIES.

(a) IN GENERAL.—Nothing in this title affects the authority of a Federal agency to provide technical or financial assistance under any other law.

(b) CONSULTATION AND COORDINATION.—The head of any Federal agency planning to conduct activities that may have an impact on the National Heritage Area is encouraged to consult and coordinate the activities with the Secretary and the local coordinating entity to the maximum extent practicable.

(c) OTHER FEDERAL AGENCIES.—Nothing in this title—

(1) modifies, alters, or amends any law or regulation authorizing a Federal agency to manage Federal land under the jurisdiction of the Federal agency;

(2) limits the discretion of a Federal land manager to implement an approved land use plan within the boundaries of the National Heritage Area; or

(3) modifies, alters, or amends any authorized use of Federal land under the jurisdiction of a Federal agency.

SEC. 5107. PRIVATE PROPERTY AND REGULATORY PROTECTIONS.

Nothing in this title—

(1) abridges the rights of any owner of public or private property, including the right to refrain from participating in any plan, project, program, or activity conducted within the National Heritage Area;

(2) requires any property owner to permit public access (including access by Federal, State, tribal, or local agencies) to the property of the property owner, or to modify public access or use of property of the property owner under any other Federal, State, tribal, or local law;

(3) alters any duly adopted land use regulation, approved land use plan, or other regulatory authority of any Federal, State, tribal, or local agency, or conveys any land use

or other regulatory authority to any local coordinating entity, including development and management of energy, water, or water-related infrastructure;

(4) authorizes or implies the reservation or appropriation of water or water rights;

(5) diminishes the authority of the State to manage fish and wildlife, including the regulation of fishing and hunting within the National Heritage Area; or

(6) creates any liability, or affects any liability under any other law, of any private property owner with respect to any person injured on the private property.

SEC. 5108. FUNDING LIMITATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out this title, subject to the limitations of section 5201.

(b) COST-SHARING REQUIREMENT.—The Federal share of the total cost of any activity under this title shall be not more than 50 percent. The non-Federal contribution may be in the form of in-kind contributions of goods or services fairly valued.

SEC. 5109. USE OF FEDERAL FUNDS FROM OTHER SOURCES.

Nothing in this title shall preclude the local coordinating entity from using Federal funds available under other laws for the purposes for which those funds were authorized.

SEC. 5110. TERMINATION OF FINANCIAL ASSISTANCE.

The authority of the Secretary to provide financial assistance under this title terminates on the date that is 15 years after the date of the enactment of this title.

TITLE LII—FUNDING LIMITATIONS FOR NATIONAL HERITAGE AREAS

SEC. 5201. FUNDING LIMITATIONS FOR NATIONAL HERITAGE AREAS.

(a) ANNUAL LIMIT.—Except as otherwise expressly authorized by law, the Secretary of the Interior may not provide more than $1,000,000 for any fiscal year for any individual national heritage area.

(b) CUMULATIVE LIMIT.—Except as otherwise expressly authorized by law, the Secretary of the Interior may not provide more than a total of $10,000,000 for any individual national heritage area.

DIVISION F—BUREAU OF LAND MANAGEMENT AUTHORIZATIONS

TITLE LX—NATIONAL CONSERVATION AREAS AND HISTORIC SITES

Subtitle A—Río Grande Del Norte National Conservation Area

SEC. 6001. DEFINITIONS.

In this subtitle:

(1) CONSERVATION AREA.—The term ''Conservation Area'' means the Río Grande del Norte National Conservation Area established by section 6002(a)(1).

(2) LAND GRANT COMMUNITY.—The term ''land grant community'' means a member of the Board of Trustees of confirmed and nonconfirmed community land grants within the Conservation Area.

(3) MANAGEMENT PLAN.—The term ''management plan'' means the management plan for the Conservation Area developed under section 6002(d).

(4) MAP.—The term ''map'' means the map entitled ''Río Grande del Norte National Conservation Area'' and dated November 4, 2009.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(6) STATE.—The term ''State'' means the State of New Mexico.

SEC. 6002. ESTABLISHMENT OF NATIONAL CONSERVATION AREA.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established the Río Grande del Norte National Conservation Area in the State.

(2) AREA INCLUDED.—The Conservation Area shall consist of approximately 235,980 acres of public land in Taos and Río Arriba counties in the State, as generally depicted on the map.

(b) PURPOSES.—The purposes of the Conservation Area are to conserve, protect, and enhance for the benefit and enjoyment of present and future generations the cultural, archaeological, natural, ecological, geological, historical, wildlife, educational, recreational, and scenic resources of the Conservation Area.

(c) MANAGEMENT.—

(1) IN GENERAL.—The Secretary shall manage the Conservation Area—

(A) in a manner that conserves, protects, and enhances the resources of the Conservation Area; and

(B) in accordance with—

(i) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.);

(ii) this subtitle; and

(iii) any other applicable laws.

(2) USES.—

(A) IN GENERAL.—The Secretary shall allow only such uses of the Conservation Area that the Secretary determines would further the purposes described in subsection (b).

(B) USE OF MOTORIZED VEHICLES.—

(i) IN GENERAL.—Except as needed for administrative purposes or to respond to an emergency, the use of motorized vehicles in the Conservation Area shall be permitted only on roads designated for use by motorized vehicles in the management plan.

(ii) NEW ROADS.—No additional road shall be built within the Conservation Area after the date of enactment of this Act unless the road is needed for public safety or natural resource protection.

(C) GRAZING.—The Secretary shall permit grazing within the Conservation Area, where established before the date of enactment of this Act—

(i) subject to all applicable laws (including regulations) and Executive orders; and

(ii) consistent with the purposes described in subsection (b).

(D) COLLECTION OF PIÑON NUTS AND FIREWOOD.—Nothing in this section precludes the traditional collection of firewood and piñon nuts for noncommercial personal use within the Conservation Area—

(i) in accordance with any applicable laws; and

(ii) subject to such terms and conditions as the Secretary determines to be appropriate.

(E) UTILITY RIGHT-OF-WAY UPGRADES.—Nothing in this section precludes the Secretary from renewing or authorizing the upgrading (including widening) of an existing utility right-of-way through the Conservation Area in a manner that minimizes harm to the purposes of the Conservation Area described in subsection (b)—

(i) in accordance with—

(I) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(II) any other applicable law; and

(ii) subject to such terms and conditions as the Secretary determines to be appropriate.

(F) TRIBAL CULTURAL USES.—

(i) ACCESS.—The Secretary shall, in consultation with Indian tribes or pueblos—

(I) ensure the protection of religious and cultural sites in the Conservation Area; and

(II) provide access to the sites by members of Indian tribes or pueblos for traditional cultural and customary uses, consistent with Public Law 95–341 (commonly known as the ''American Indian Religious Freedom Act'') (42 U.S.C. 1996).

(ii) TEMPORARY CLOSURES.—In accordance with Public Law 95–341 (commonly known as the ''American Indian Religious Freedom Act'') (42 U.S.C. 1996), the Secretary, on request of an Indian tribe or pueblo, may temporarily close to general public use 1 or more specific areas of the Conservation Area in order to protect traditional cultural and customary uses in those areas by members of the Indian tribe or the pueblo.

(d) MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Secretary shall develop a management plan for the Conservation Area.

(2) OTHER PLANS.—To the extent consistent with this subtitle, the plan may incorporate in the management plan the Río Grande Corridor Management Plan in effect on the date of enactment of this Act.

(3) CONSULTATION.—The management plan shall be developed in consultation with—

(A) State and local governments;

(B) tribal governmental entities;

(C) land grant communities; and

(D) the public.

(4) CONSIDERATIONS.—In preparing and implementing the management plan, the Secretary shall consider the recommendations of Indian tribes and pueblos on methods for—

(A) ensuring access to religious and cultural sites;

(B) enhancing the privacy and continuity of traditional cultural and religious activities in the Conservation Area; and

(C) protecting traditional cultural and religious sites in the Conservation Area.

(e) INCORPORATION OF ACQUIRED LAND AND INTERESTS IN LAND.—Any land that is within the boundary of the Conservation Area that is acquired by the United States shall—

(1) become part of the Conservation Area; and

(2) be managed in accordance with—

(A) this subtitle; and

(B) any other applicable laws.

(f) SPECIAL MANAGEMENT AREAS.—

(1) IN GENERAL.—The establishment of the Conservation Area shall not change the management status of any area within the boundary of the Conservation Area that is—

(A) designated as a component of the National Wild and Scenic Rivers System under the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.); or

(B) managed as an area of critical environmental concern.

(2) CONFLICT OF LAWS.—If there is a conflict between the laws applicable to the areas described in paragraph (1) and this subtitle, the more restrictive provision shall control.

SEC. 6003. DESIGNATION OF WILDERNESS AREAS.

(a) IN GENERAL.—In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), the following areas in the Conservation Area are designated as wilderness and as components of the National Wilderness Preservation System:

(1) CERRO DEL YUTA WILDERNESS.—Certain land administered by the Bureau of Land Management in Taos County, New Mexico, comprising approximately 13,420 acres as generally depicted on the map, which shall be known as the ''Cerro del Yuta Wilderness''.

(2) RÍO SAN ANTONIO WILDERNESS.—Certain land administered by the Bureau of Land Management in Río Arriba County, New Mexico, comprising approximately 8,000 acres, as generally depicted on the map, which shall be known as the ''Río San Antonio Wilderness''.

(b) MANAGEMENT OF WILDERNESS AREAS.—Subject to valid existing rights, the wilderness areas designated by subsection (a) shall be administered in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.) and this subtitle, except that with respect to the wilderness areas designated by this subtitle—

(1) any reference to the effective date of the Wilderness Act shall be considered to be a reference to the date of enactment of this Act; and

(2) any reference in the Wilderness Act to the Secretary of Agriculture shall be considered to be a reference to the Secretary.

(c) INCORPORATION OF ACQUIRED LAND AND INTERESTS IN LAND.—Any land or interest in land within the boundary of the wilderness areas designated by subsection (a) that is acquired by the United States shall—

(1) become part of the wilderness area in which the land is located; and

(2) be managed in accordance with—

(A) the Wilderness Act (16 U.S.C. 1131 et seq.);

(B) this subtitle; and

(C) any other applicable laws.

(d) GRAZING.—Grazing of livestock in the wilderness areas designated by subsection (a), where established before the date of enactment of this Act, shall be administered in accordance with—

(1) section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)); and

(2) the guidelines set forth in Appendix A of the Report of the Committee on Interior and Insular Affairs to accompany H.R. 2570 of the 101st Congress (H. Rept. 101–405).

(e) BUFFER ZONES.—

(1) IN GENERAL.—Nothing in this section creates a protective perimeter or buffer zone around any wilderness area designated by subsection (a).

(2) ACTIVITIES OUTSIDE WILDERNESS AREAS.—The fact that an activity or use on land outside any wilderness area designated by subsection (a) can be seen or heard within the wilderness area shall not preclude the activity or use outside the boundary of the wilderness area.

(f) RELEASE OF WILDERNESS STUDY AREAS.—Congress finds that, for purposes of section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)), the public land within the San Antonio Wilderness Study Area not designated as wilderness by this section—

(1) has been adequately studied for wilderness designation;

(2) is no longer subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)); and

(3) shall be managed in accordance with this subtitle.

SEC. 6004. GENERAL PROVISIONS.

(a) MAPS AND LEGAL DESCRIPTIONS.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall file the map and legal descriptions of the Conservation Area and the wilderness areas designated by section 6003(a) with—

(A) the Committee on Energy and Natural Resources of the Senate; and

(B) the Committee on Natural Resources of the House of Representatives.

(2) FORCE OF LAW.—The map and legal descriptions filed under paragraph (1) shall have the same force and effect as if included in this subtitle, except that the Secretary may correct errors in the legal description and map.

(3) PUBLIC AVAILABILITY.—The map and legal descriptions filed under paragraph (1) shall be on file and available for public inspection in the appropriate offices of the Bureau of Land Management.

(b) NATIONAL LANDSCAPE CONSERVATION SYSTEM.—The Conservation Area and the wilderness areas designated by section 6003(a) shall be administered as components of the National Landscape Conservation System.

(c) FISH AND WILDLIFE.—Nothing in this subtitle affects the jurisdiction of the State with respect to fish and wildlife located on public land in the State, except that the Secretary, after consultation with the New Mexico Department of Game and Fish, may designate zones where, and establishing periods when, hunting shall not be allowed for reasons of public safety, administration, or public use and enjoyment.

(d) WITHDRAWALS.—Subject to valid existing rights, any Federal land within the Conservation Area and the wilderness areas designated by section 6003(a), including any land or interest in land that is acquired by the United States after the date of enactment of this Act, is withdrawn from—

(1) entry, appropriation, or disposal under the public land laws;

(2) location, entry, and patent under the mining laws; and

(3) operation of the mineral leasing, mineral materials, and geothermal leasing laws.

(e) TREATY RIGHTS.—Nothing in this subtitle enlarges, diminishes, or otherwise modifies any treaty rights.

SEC. 6005. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this subtitle.

Subtitle B—Gold Hill Ranch, California

SEC. 6011. DEFINITIONS.

In this subtitle:

(1) GOLD HILL RANCH.—The term ''Gold Hill Ranch'' means the approximately 272 acres of land located in Coloma, California, as generally depicted on the map entitled ''Gold Hill–Wakamatsu Site'' and dated May 7, 2009.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

SEC. 6012. GOLD HILL RANCH.

(a) ACQUISITION.—The Secretary may acquire the Gold Hill Ranch, including any interest in the Gold Hill Ranch, by purchase from a willing seller with donated or appropriated funds, donation, or exchange.

(b) MANAGEMENT.—The Secretary shall manage any land or interest in land acquired under subsection (a) in accordance with—

(1) this subtitle;

(2) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); and

(3) any other applicable laws.

(c) COOPERATIVE AGREEMENT.—

(1) IN GENERAL.—The Secretary may enter into a cooperative agreement with public or nonprofit entities to interpret the history of the Wakamatsu Tea and Silk Farm Colony and related pioneer history associated with Japanese immigration to the area, including the history of traditional Japanese crops and farming practices and the contribution of those practices to the agricultural economy of the State of California.

(2) INCLUSIONS.—The cooperative agreement referred to in paragraph (1) may include provisions for the design and development of a visitor center to further public education and interpretation of the Gold Hill Ranch.

SEC. 6013. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this subtitle.

Subtitle C—Orange County, California

SEC. 6021. PRESERVATION OF ROCKS AND SMALL ISLANDS ALONG THE COAST OF ORANGE COUNTY, CALIFORNIA.

(a) CALIFORNIA COASTAL NATIONAL MONUMENT.—The Act of February 18, 1931, entitled ''An Act to reserve for public use rocks, pinnacles, reefs, and small islands along the seacoast of Orange County, California'' is amended by striking ''temporarily reserved'' and all that follows through ''United States'' and inserting ''part of the California Coastal National Monument and shall be administered as such''.

(b) REPEAL OF RESERVATION.—Section 31 of the Act of May 28, 1935, entitled ''An Act to authorize the Secretary of Commerce to dispose of certain lighthouse reservations, and for other purposes'' is hereby repealed.

TITLE LXI—LAND CONVEYANCES AND EXCHANGES

Subtitle A—Salmon Lake Land Selection Resolution

SEC. 6101. PURPOSE.

The purpose of this subtitle is to ratify the Salmon Lake Area Land Ownership Consolidation Agreement entered into by the United States, the State of Alaska, and the Bering Straits Native Corporation.

SEC. 6102. DEFINITIONS.

In this subtitle:

(1) AGREEMENT.—The term ''Agreement'' means the document between the United States, the State, and the Bering Straits Native Corporation that—

(A) is entitled the ''Salmon Lake Area Land Ownership Consolidation Agreement'';

(B) had an initial effective date of July 18, 2007, which was extended until January 1, 2011, by agreement of the parties to the Agreement effective January 1, 2009; and

(C) is on file with Department of the Interior, the Committee on Energy and Natural Resources of the Senate, and the Committee on Natural Resources of the House of Representatives.

(2) BERING STRAITS NATIVE CORPORATION.—The term ''Bering Straits Native Corporation'' means an Alaskan Native Regional Corporation formed under the Alaska Native Claims Settlement Act (43 U.S. C. 1601 et. seq.) for the Bering Straits region of the State.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(4) STATE.—The term ''State'' means the State of Alaska.

SEC. 6103. RATIFICATION AND IMPLEMENTATION OF AGREEMENT.

(a) IN GENERAL.—Subject to the provisions of this subtitle, Congress ratifies the Agreement.

(b) EASEMENTS.—The conveyance of land to the Bering Straits Native Corporation, as specified in the Agreement, shall include the reservation of the easements that—

(1) are identified in Appendix E to the Agreement; and

(2) were developed by the parties to the Agreement in accordance with section 17(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1616(b)).

(c) CORRECTIONS.—Beginning on the date of enactment of this Act, the Secretary, with the consent of the other parties to the Agreement, may only make typographical or clerical corrections to the Agreement and any exhibits to the Agreement.

(d) AUTHORIZATION.—The Secretary shall carry out all actions required by the Agreement.

Subtitle B—Southern Nevada Higher Education Land Conveyance

SEC. 6111. DEFINITIONS.

In this subtitle:

(1) BOARD OF REGENTS.—The term ''Board of Regents'' means the Board of Regents of the Nevada System of Higher Education.

(2) CAMPUSES.—The term ''Campuses'' means the Great Basin College, College of Southern Nevada, and University of Las Vegas, Nevada, campuses.

(3) FEDERAL LAND.—The term ''Federal land'' means each of the 3 parcels of Bureau of Land Management land identified on the maps as ''Parcel to be Conveyed'', of which—

(A) approximately 40 acres is to be conveyed for the College of Southern Nevada;

(B) approximately 2,085 acres is to be conveyed for the University of Nevada, Las Vegas; and

(C) approximately 285 acres is to be conveyed for the Great Basin College.

(4) MAP.—The term ''Map'' means each of the 3 maps entitled ''Southern Nevada Higher Education Land Act'', dated July 11, 2008,

and on file and available for public inspection in the appropriate offices of the Bureau of Land Management.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(6) STATE.—The term ''State'' means the State of Nevada.

(7) SYSTEM.—The term ''System'' means the Nevada System of Higher Education.

SEC. 6112. CONVEYANCES OF FEDERAL LAND TO THE SYSTEM.

(a) CONVEYANCES.—

(1) IN GENERAL.—Notwithstanding section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712) and section 1(c) of the Act of June 14, 1926 (commonly known as the ''Recreation and Public Purposes Act'') (43 U.S.C. 869(c)), and subject to all valid existing rights, the Secretary shall—

(A) not later than 180 days after the date of enactment of this Act, convey to the System, without consideration, all right, title, and interest of the United States in and to the Federal land for the Great Basin College and the College of Southern Nevada; and

(B) on the receipt of certification of acceptable remediation of environmental conditions existing on the parcel to be conveyed for the University of Nevada, Las Vegas, convey to the System, without consideration, all right, title, and interest of the United States in and to the Federal land for the University of Nevada, Las Vegas.

(2) PHASES.—The Secretary may phase the conveyance of the Federal land under paragraph (1)(B) as remediation is completed.

(b) CONDITIONS.—

(1) IN GENERAL.—As a condition of the conveyance under subsection (a)(1), the Board of Regents shall agree in writing—

(A) to pay any administrative costs associated with the conveyance, including the costs of any environmental, wildlife, cultural, or historical resources studies;

(B) to use the Federal land conveyed for educational and recreational purposes;

(C) to release and indemnify the United States from any claims or liabilities that may arise from uses carried out on the Federal land on or before the date of enactment of this Act by the United States or any person;

(D) as soon as practicable after the date of the conveyance under subsection (a)(1), to erect at each of the Campuses an appropriate and centrally located monument that acknowledges the conveyance of the Federal land by the United States for the purpose of furthering the higher education of the citizens in the State; and

(E) to assist the Bureau of Land Management in providing information to the students of the System and the citizens of the State on—

(i) public land (including the management of public land) in the Nation; and

(ii) the role of the Bureau of Land Management in managing, preserving, and protecting the public land in the State.

(2) NELLIS AIR FORCE BASE.—

(A) IN GENERAL.—The Federal land conveyed to the System under this subtitle shall be used in accordance with the agreement entitled the ''Cooperative Interlocal Agreement between the Board of Regents of the Nevada System of Higher Education, on Behalf of the University of Nevada, Las Vegas, and the 99th Air Base Wing, Nellis Air Force Base, Nevada'' and dated June 19, 2009.

(B) MODIFICATIONS.—Any modifications to the interlocal agreement described in subparagraph (A) and any related master plan shall require the mutual assent of the parties to the agreement.

(C) LIMITATION.—In no case shall the use of the Federal land conveyed under subsection (a)(1)(B) compromise the national security mission or avigation rights of Nellis Air Force Base.

(c) USE OF FEDERAL LAND.—

(1) IN GENERAL.—The System may use the Federal land conveyed under subsection (a)(1) for—

(A) any educational or public purpose relating to the establishment, operation, growth, and maintenance of the System, including—

(i) educational facilities;

(ii) housing for students, employees of the System, and educators;

(iii) student life and recreational facilities, public parks, and open space;

(iv) university and college medical and health facilities; and

(v) research facilities; and

(B) any other public purpose that would generally be associated with an institution of higher education, consistent with the Act of June 14, 1926 (commonly known as the ''Recreation and Public Purposes Act'') (43 U.S.C. 869 et seq.).

(2) OTHER ENTITIES.—The System may—

(A) consistent with Federal and State law, lease, or otherwise provide property or space at, the Campuses, with or without consideration, to religious, public interest, community, or other groups for services and events that are of interest to the System or to any community located in southern Nevada;

(B) allow any other communities in southern Nevada to use facilities of the Campuses for educational and recreational programs of the community; and

(C) in conjunction with the city of Las Vegas, North Las Vegas, or Pahrump or Clark or Nye County plan, finance (including through the provision of cost-share assistance), construct, and operate facilities for the city of Las Vegas, North Las Vegas, or Pahrump or Clark or Nye County on the Federal land conveyed for educational or recreational purposes consistent with this section.

(d) REVERSION.—If the Federal land or any portion of the Federal land conveyed under subsection (a)(1) ceases to be used for the System in accordance with this subtitle, the Federal land, or any portion of the Federal land shall, at the discretion of the Secretary, revert to the United States.

SEC. 6113. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this subtitle.

Subtitle C—La Pine, Oregon, Land Conveyance

SEC. 6121. DEFINITIONS.

In this subtitle:

(1) CITY.—The term ''City'' means the City of La Pine, Oregon.

(2) COUNTY.—The term ''County'' means the County of Deschutes, Oregon.

(3) MAP.—The term ''map'' means the map entitled ''La Pine, Oregon Land Transfer'' and dated December 11, 2009.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Director of the Bureau of Land Management.

SEC. 6122. CONVEYANCES OF LAND.

(a) IN GENERAL.—As soon as practicable after the date of enactment of this Act, subject to valid existing rights and the provisions of this subtitle, and notwithstanding the land use planning requirements of sections 202 and 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712, 1713), the Secretary shall convey to the City or County, without consideration, all right, title, and interest of the United States in and to each parcel of land described in subsection (b).

(b) DESCRIPTION OF LAND.—The parcels of land referred to in subsection (a) consist of—

(1) the approximately 150 acres of land managed by the Bureau of Land Management, Prineville District, Oregon, depicted on the map as ''parcel A'', to be conveyed to the County, which is subject to a right-of-way retained by the Bureau of Land Management for a power substation and transmission line;

(2) the approximately 750 acres of land managed by the Bureau of Land Management, Prineville District, Oregon, depicted on the map as ''parcel B'', to be conveyed to the County; and

(3) the approximately 10 acres of land managed by the Bureau of Land Management, Prineville District, Oregon, depicted on the map as ''parcel C'', to be conveyed to the City.

(c) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the Bureau of Land Management.

(d) USE OF CONVEYED LAND.—

(1) IN GENERAL.—Consistent with the Act of June 14, 1926 (commonly known as the ''Recreation and Public Purposes Act'') (43 U.S.C. 869 et seq.), the land conveyed under subsection (a) shall be used for the following public purposes and associated uses:

(A) The parcel described in subsection (b)(1) shall be used for outdoor recreation, open space, or public parks, including a rodeo ground.

(B) The parcel described in subsection (b)(2) shall be used for a public sewer system.

(C) The parcel described in subsection (b)(3) shall be used for a public library, public park, or open space.

(2) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions for the conveyances under subsection (a) as the Secretary determines to be appropriate to protect the interests of the United States.

(e) ADMINISTRATIVE COSTS.—The Secretary shall require the County to pay all survey costs and other administrative costs associated with the conveyances to the County under this subtitle.

(f) REVERSION.—If the land conveyed under subsection (a) ceases to be used for the public purpose for which the land was conveyed, the land shall, at the discretion of the Secretary, revert to the United States.

TITLE LXII—SLOAN HILLS MINERAL WITHDRAWAL

SEC. 6201. WITHDRAWAL OF SLOAN HILLS AREA OF CLARK COUNTY, NEVADA.

(a) DEFINITION OF FEDERAL LAND.—In this section, the term ''Federal land'' means the land identified as the ''Withdrawal Zone'' on the map entitled ''Sloan Hills Area'' and dated June 24, 2010.

(b) WITHDRAWAL.—Subject to valid rights in existence on the date of introduction of this Act, the Federal land is withdrawn from all forms of—

(1) location, entry, and patent under the mining laws; and

(2) disposition under all laws pertaining to mineral and geothermal leasing or mineral materials.

DIVISION G—RIVERS AND TRAILS

TITLE LXX—NATIONAL WILD AND SCENIC RIVERS SYSTEM AMENDMENTS

SEC. 7001. MOLALLA RIVER, OREGON.

(a) DESIGNATION OF WILD AND SCENIC RIVER SEGMENTS, MOLALLA RIVER, OREGON.—Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) (as amended by section 2203) is amended by adding at the end the following:

''(213) MOLALLA RIVER, OREGON.—

''(A) IN GENERAL.—The following segments in the State of Oregon, to be administered by the Secretary of the Interior as a recreational river:

''(i) MOLALLA RIVER.—The approximately 15.1-mile segment from the southern boundary line of T. 7 S., R. 4 E., sec. 19, downstream to the edge of the Bureau of Land Management boundary in T. 6 S., R. 3 E., sec. 7.

''(ii) TABLE ROCK FORK MOLALLA RIVER.—The approximately 6.2-mile segment from the easternmost Bureau of Land Management boundary line in the NE¼ sec. 4, T. 7 S., R. 4 E., downstream to the confluence with the Molalla River.

''(B) WITHDRAWAL.—Subject to valid existing rights, the Federal land within the boundaries of the river segments designated by subparagraph (A) is withdrawn from all forms of—

''(i) entry, appropriation, or disposal under the public land laws;

''(ii) location, entry, and patent under the mining laws; and

''(iii) disposition under all laws relating to mineral and geothermal leasing or mineral materials.''.

(b) TECHNICAL CORRECTIONS.—Section 3(a)(102) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)(102)) is amended—

(1) in the heading, by striking ''SQUAW CREEK'' and inserting ''WHYCHUS CREEK'';

(2) in the matter preceding subparagraph (A), by striking ''McAllister Ditch, including the Soap Fork Squaw Creek, the North Fork, the South Fork, the East and West Forks of Park Creek, and Park Creek Fork'' and inserting ''Plainview Ditch, including the Soap Creek, the North and South Forks of Whychus Creek, the East and West Forks of Park Creek, and Park Creek''; and

(3) in subparagraph (B), by striking ''McAllister Ditch'' and inserting ''Plainview Ditch''.

SEC. 7002. ILLABOT CREEK, WASHINGTON.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) (as amended by section 7001(a)) is amended by adding at the end the following:

''(214) ILLABOT CREEK, WASHINGTON.—

''(A) The 14.3 mile segment from the headwaters of Illabot Creek to the northern terminus as generally depicted on the map titled 'Illabot Creek Proposed WSR – Northern Terminus', dated September 15, 2009, to be administered by the Secretary of Agriculture as follows:

''(i) The 4.3 mile segment from the headwaters of Illabot Creek to the boundary of Glacier Peak Wilderness Area as a wild river.

''(ii) The 10 mile segment from the boundary of Glacier Peak Wilderness to the northern terminus as generally depicted on the map titled 'Illabot Creek Proposed WSR – Northern Terminus', dated September 15, 2009, as a recreational river.

''(B) Action required to be taken under subsection (d)(1) for the river segments designated under this paragraph shall be completed through revision of the Skagit Wild and Scenic River comprehensive management plan.''.

SEC. 7003. WHITE CLAY CREEK.

(a) DESIGNATION.—Section 3(a)(163) of the Wild and Scenic Rivers Act (16 U.S. C. 1274(a)(163)) is amended—

(1) in the matter preceding subparagraph (A)—

(A) by striking ''190 miles'' and inserting ''199 miles''; and

(B) by striking ''the recommended designation and classification maps (dated June 2000)'' and inserting ''the map entitled 'White Clay Creek Wild and Scenic River Designated Area Map' and dated July 2008, the map entitled 'White Clay Creek Wild and Scenic River Classification Map' and dated July 2008, and the map entitled 'White Clay Creek National Wild and Scenic River Proposed Additional Designated Segments-July 2008' '';

(2) by striking subparagraph (B) and inserting the following:

''(B) 22.4 miles of the east branch beginning at the southern boundary line of the Borough of Avondale, including Walnut Run, Broad Run, and Egypt Run, outside the boundaries of the White Clay Creek Preserve, as a recreational river.''; and

(3) by striking subparagraph (H) and inserting the following:

''(H) 14.3 miles of the main stem, including Lamborn Run, that flow through the boundaries of the White Clay Creek Preserve, Pennsylvania and Delaware, and White Clay Creek State Park, Delaware beginning at the confluence of the east and middle branches in London Britain Township, Pennsylvania, downstream to the northern boundary line of the City of Newark, Delaware, as a scenic river.''.

(b) ADMINISTRATION.—Sections 4 through 8 of Public Law 106–357 (16 U.S.C. 1274 note; 114 Stat. 1393), shall be applicable to the additional segments of the White Clay Creek designated by the amendments made by subsection (a).

SEC. 7004. ELK RIVER, WEST VIRGINIA.

(a) DESIGNATION.—Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)) (as amended by section 7002) is amended by adding at the end the following:

''(215) ELK RIVER, WEST VIRGINIA.—The approximate 5-mile segment of the Elk River from the confluence of the Old Field Fork and the Big Spring Fork in Pocahontas County to the Pocahontas and Randolph County line.''.

(b) STUDY AND REPORT.—Section 5(b) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(b)) (as amended by section 205(b)(2)) is amended by adding at the end the following:

''(21) ELK RIVER, WEST VIRGINIA.—Not later than 3 years after funds are made available to carry out this paragraph, the Secretary of Agriculture shall complete the study of the 5-mile segment of the Elk River, West Virginia, designated for study in subsection (a), and shall submit to Congress a report containing the results of the study. The report shall include an analysis of the potential impact of the designation on private lands within the 5-mile segment of the Elk River, West Virginia, or abutting that area.''.

(c) EFFECT.—

(1) EFFECT ON ACCESS FOR RECREATIONAL ACTIVITIES.—Consistent with section 13 of the Wild and Scenic Rivers Act (16 U.S.C. 1284), nothing in the designation made by the amendment in subsection (a) shall be construed as affecting access for recreational activities otherwise allowed by law or regulation, including hunting, fishing, or trapping.

(2) EFFECT ON STATE AUTHORITY.—Consistent with section 13 of the Wild and Scenic Rivers Act (16 U.S.C. 1284), nothing in the designation made by the amendment in subsection (a) shall be construed as affecting the authority, jurisdiction, or responsibility of the several States to manage, control, or regulate fish and resident wildlife under State law or regulations, including the regulation of hunting, fishing, and trapping.

TITLE LXXI—NATIONAL TRAIL SYSTEM AMENDMENTS

SEC. 7101. NORTH COUNTRY NATIONAL SCENIC TRAIL ROUTE ADJUSTMENT.

Section 5(a)(8) of the National Trails System Act (16 U.S.C. 1244(a)(8)) is amended in the first sentence—

(1) by striking ''thirty-two hundred'' and inserting ''4,600''; and

(2) by striking ''as 'Proposed North Country Trail-Vicinity Map' in'' and all that follows through the period at the end of the sentence and inserting ''as 'North Country National Scenic Trail, Authorized Route' dated February 16, 2005, and numbered 649/80,002.''.

DIVISION H—WATER AND HYDROPOWER AUTHORIZATIONS

TITLE LXXX—BUREAU OF RECLAMATION PROJECT AUTHORIZATIONS

SEC. 8001. MAGNA WATER DISTRICT.

(a) IN GENERAL.—The Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h et seq.) is amended by adding at the end the following:

''SEC. 1657. MAGNA WATER DISTRICT WATER REUSE AND GROUNDWATER RECHARGE PROJECT, UTAH.

''(a) AUTHORIZATION.—The Secretary, in cooperation with the Magna Water District, Utah, may participate in the design, planning, and construction of permanent facilities needed to establish recycled water distribution and wastewater treatment and reclamation facilities that will be used to provide recycled water in the Magna Water District.

''(b) COST SHARING.—

''(1) FEDERAL SHARE.—The Federal share of the capital cost of the project described in subsection (a) shall not exceed 25 percent of the total cost of the project.

''(2) NON-FEDERAL SHARE.—Each cost incurred by the Magna Water District after January 1, 2003, relating to any capital, planning, design, permitting, construction, or land acquisition (including the value of reallocated water rights) for the project described in subsection (a) may be credited towards the non-Federal share of the costs of the project.

''(c) LIMITATION.—Funds provided by the Secretary shall not be used for operation or maintenance of the project described in subsection (a).

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.''.

(b) CONFORMING AMENDMENT.—The table of sections in section 2 of the Reclamation Projects Authorization and Adjustment Act of 1992 (43 U.S.C. prec. 371) is amended by inserting after the item relating to section 1656 the following:

''Sec. 1657. Magna Water District water reuse and groundwater recharge project, Utah.''.

SEC. 8002. BAY AREA REGIONAL WATER RECYCLING PROGRAM.

(a) PROJECT AUTHORIZATIONS.—

(1) IN GENERAL.—The Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h et seq.) (as amended by section 8001(a)) is amended by adding at the end the following:

''SEC. 1658. CCCSD-CONCORD RECYCLED WATER PROJECT.

''(a) AUTHORIZATION.—The Secretary, in cooperation with the Central Contra Costa Sanitary District, California, is authorized to participate in the design, planning, and construction of recycled water distribution systems.

''(b) COST SHARE.—The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.

''(c) LIMITATION.—The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary.

"SEC. 1659. CENTRAL DUBLIN RECYCLED WATER DISTRIBUTION AND RETROFIT PROJECT.

''(a) AUTHORIZATION.—The Secretary, in cooperation with the Dublin San Ramon Services District, California, is authorized to participate in the design, planning, and construction of recycled water system facilities.

''(b) COST SHARE.—The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.

''(c) LIMITATION.—The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary.

"SEC. 1660. PETALUMA RECYCLED WATER PROJECT, PHASES 2A, 2B, AND 3.

''(a) AUTHORIZATION.—The Secretary, in cooperation with the City of Petaluma, California, is authorized to participate in the design, planning, and construction of recycled water system facilities.

''(b) COST SHARE.—The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.

''(c) LIMITATION.—The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section such sums as are necessary.

"SEC. 1661. CENTRAL REDWOOD CITY RECYCLED WATER PROJECT.

''(a) AUTHORIZATION.—The Secretary, in cooperation with the City of Redwood City, California, is authorized to participate in the design, planning, and construction of recycled water system facilities.

''(b) COST SHARE.—The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.

''(c) LIMITATION.—The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary.

"SEC. 1662. PALO ALTO RECYCLED WATER PIPELINE PROJECT.

''(a) AUTHORIZATION.—The Secretary, in cooperation with the City of Palo Alto, California, is authorized to participate in the design, planning, and construction of recycled water system facilities.

''(b) COST SHARE.—The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.

''(c) LIMITATION.—The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary.

"SEC. 1663. IRONHOUSE SANITARY DISTRICT (ISD) ANTIOCH RECYCLED WATER PROJECT.

''(a) AUTHORIZATION.—The Secretary, in cooperation with the Ironhouse Sanitary District (ISD), California, is authorized to participate in the design, planning, and construction of recycled water distribution systems.

''(b) COST SHARE.—The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.

''(c) LIMITATION.—The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary.''.

(2) PROJECT IMPLEMENTATION.—In carrying out sections 1642 through 1648 of the Reclamation Wastewater and Groundwater Study and Facilities Act, and the sections added to such Act by paragraph (1), the Secretary shall enter into individual agreements with the San Francisco Bay Area Regional Water Recycling implementing agencies to fund the projects through the Bay Area Clean Water Agencies (BACWA) or its successor, and may include in such agreements a provision for the reimbursement of construction costs, including those construction costs incurred prior to the enactment of this Act, subject to appropriations made available for the Federal share of the project under sections 1642 through 1648 of the Reclamation Wastewater and Groundwater Study and Facilities Act and the sections added to such Act by paragraph (1).

(3) CLERICAL AMENDMENTS.—The table of contents of the Reclamation Projects Authorization and Adjustment Act of 1992 (43 U.S.C. prec. 371) (as amended by section 8001(b)) is amended by adding at the end the following:

''Sec. 1658. CCCSD-Concord recycled water project.
''Sec. 1659. Central Dublin recycled water distribution and retrofit project.
''Sec. 1660. Petaluma recycled water project, phases 2a, 2b, and 3.
''Sec. 1661. Central Redwood City recycled water project.
''Sec. 1662. Palo Alto recycled water pipeline project.
''Sec. 1663. Ironhouse Sanitary District (ISD) Antioch recycled water project.''.

(b) MODIFICATION TO AUTHORIZED PROJECTS.—

(1) ANTIOCH RECYCLED WATER PROJECT.—Section 1644(d) of the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h–27) (as amended by section 512(a) of the Consolidated Natural Resources Act of 2008) is amended—

(A) by striking ''is'' and inserting ''are''; and

(B) by striking ''$2,250,000'' and inserting ''such sums as are necessary''.

(2) SOUTH BAY ADVANCED RECYCLED WATER TREATMENT FACILITY.—Section 1648(d) of the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h–31) (as amended by section 512(a) of the Consolidated Natural Resources Act of 2008) is amended—

(A) by striking ''is'' and inserting ''are''; and

(B) by striking ''$8,250,000'' and inserting ''such sums as are necessary''.

SEC. 8003. CALLEGUAS WATER PROJECT.

Section 1631(d) of the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h–13(d)) is amended—

(1) in paragraph (1) by striking ''paragraph (2)'' and inserting ''paragraphs (2) and (3)''; and

(2) by adding at the end the following:

''(3) In the case of the Calleguas Municipal Water District Recycling Project authorized by section 1616, the Federal share of the cost of the Project may not exceed the sum determined by adding—

''(A) the amount that applies to the Project under paragraph (1); and

''(B) $20,000,000.''.

SEC. 8004. HERMISTON, OREGON, WATER RECYCLING AND REUSE PROJECT.

(a) IN GENERAL.—The Reclamation Wastewater and Groundwater Study and Facilities Act (Public Law 102–575, title XVI; 43 U.S.C. 390h et seq.) (as amended by section 8003(a)(1)) is amended by adding at the end the following:

"SEC. 1664. CITY OF HERMISTON, OREGON, WATER RECYCLING AND REUSE PROJECT.

''(a) AUTHORIZATION.—The Secretary, in cooperation with the City of Hermiston, Oregon, is authorized to participate in the design, planning, and construction of permanent facilities to reclaim and reuse water in the City of Hermiston, Oregon.

''(b) COST SHARE.—The Federal share of the costs of the project described in subsection (a) shall not exceed 25 percent of the total cost.

''(c) LIMITATION.—The Secretary shall not provide funds for the operation and maintenance of the project described in subsection (a).''.

(b) CLERICAL AMENDMENT.—The table of sections in section 2 of the Reclamation Projects Authorization and Adjustment Act of 1992 (43 U.S.C. prec. 371) (as amended by section 8003(a)(3)) is amended by adding at the end the following:

''Sec. 1664. City of Hermiston, Oregon, water recycling and reuse project.''.

SEC. 8005. CENTRAL VALLEY PROJECT WATER TRANSFERS.

(a) AUTHORIZATION OF WATER TRANSFERS, CENTRAL VALLEY PROJECT.—

(1) IN GENERAL.—Subject to paragraph (2), the following voluntary water transfers shall be considered to meet the conditions described in subparagraphs (A) and (I) of section 3405(a)(1) of the Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102–575; 106 Stat. 4709):

(A) A transfer of irrigation water among Central Valley Project contractors from the Friant, San Felipe, West San Joaquin, and Delta divisions.

(B) A transfer from a long-term Friant Division water service or repayment contractor to a temporary or prior temporary water service contractor within the place of use in existence on the date of the transfer, as identified in the Bureau of Reclamation water rights permits for the Friant Division.

(2) CONDITION.—A transfer under paragraph (1) shall comply with all applicable Federal and State law.

(b) FACILITATION OF WATER TRANSFERS, CENTRAL VALLEY PROJECT.—As soon as practicable after the date of enactment of this Act, the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service and the Commissioner of the Bureau of Reclamation, using such sums as are necessary, shall initiate and complete, on the most expedited basis practicable, programmatic documentation to facilitate voluntary water transfers within the Central Valley Project, consistent with all applicable Federal and State law.

(c) REPORT ON CENTRAL VALLEY PROJECT WATER TRANSFERS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Commissioner of the Bureau of Reclamation (referred to in this subsection as the ''Commissioner'') shall submit to the appropriate committees of Congress a report that—

(A) describes the status of efforts to help facilitate and improve the water transfers under this section;

(B) evaluates potential effects of this Act on Federal programs, Indian tribes, Central Valley Project operations, the environment, groundwater aquifers, refuges, and communities; and

(C) provides recommendations on ways to facilitate, and improve the process for—

(i) water transfers within the Central Valley Project; and

(ii) water transfers between the Central Valley Project and other water projects in the State of California.

(2) UPDATES.—Not later than the end of the water year in which the report is submitted under paragraph (1) and each of the 4 water years thereafter, the Commissioner shall update the report.

SEC. 8006. LAND WITHDRAWAL AND RESERVATION FOR CRAGIN PROJECT.

(a) DEFINITIONS.—In this section:

(1) COVERED LAND.—The term ''covered land'' means the parcel of land consisting of approximately 512 acres, as generally depicted on the Map, that consists of—

(A) approximately 300 feet of the crest of the Cragin Dam and associated spillway;

(B) the reservoir pool of the Cragin Dam that consists of approximately 250 acres defined by the high water mark; and

(C) the linear corridor.

(2) CRAGIN PROJECT.—The term ''Cragin Project'' means—

(A) the Cragin Dam and associated spillway;

(B) the reservoir pool of the Cragin Dam; and

(C) any pipelines, linear improvements, buildings, hydroelectric generating facilities, priming tanks, transmission, telephone, and fiber optic lines, pumps, machinery, tools, appliances, and other District or Bureau of Reclamation structures and facilities used for the Cragin Project.

(3) DISTRICT.—The term ''District'' means the Salt River Project Agricultural Improvement and Power District.

(4) LAND MANAGEMENT ACTIVITY.—The term ''land management activity'' includes, with respect to the covered land, the management of—

(A) recreation;

(B) grazing;

(C) wildland fire;

(D) public conduct;

(E) commercial activities that are not part of the Cragin Project;

(F) cultural resources;

(G) invasive species;

(H) timber and hazardous fuels;

(I) travel;

(J) law enforcement; and

(K) roads and trails.

(5) LINEAR CORRIDOR.—The term ''linear corridor'' means a corridor of land comprising approximately 262 acres—

(A) the width of which is approximately 200 feet;

(B) the length of which is approximately 11.5 miles;

(C) of which approximately 0.7 miles consists of an underground tunnel; and

(D) that is generally depicted on the Map.

(6) MAP.—The term ''Map'' means sheets 1 and 2 of the maps entitled ''C.C. Cragin Project Withdrawal'' and dated June 17, 2008.

(7) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture, acting through the Chief of the Forest Service.

(b) WITHDRAWAL OF COVERED LAND.—Subject to valid existing rights, the covered land is permanently withdrawn from all forms of—

(1) entry, appropriation, or disposal under the public land laws;

(2) location, entry, and patent under the mining laws; and

(3) disposition under all laws pertaining to mineral and geothermal leasing or mineral materials.

(c) MAP.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary of the Interior, in coordination with the Secretary, shall prepare a map and legal description of the covered land.

(2) FORCE AND EFFECT.—The map and legal description prepared under paragraph (1) shall have the same force and effect as if included in this section, except that the Secretary of the Interior may correct clerical and typographical errors.

(3) AVAILABILITY.—The map and legal description prepared under paragraph (1) shall be on file and available for public inspection in the appropriate offices of the Forest Service and Bureau of Reclamation.

(d) JURISDICTION AND DUTIES.—

(1) JURISDICTION OF THE SECRETARY OF THE INTERIOR.—

(A) IN GENERAL.—Except as provided in subsection (e), the Secretary of the Interior, acting through the Commissioner of Reclamation, shall have exclusive administrative jurisdiction to manage the Cragin Project in accordance with this section and section 213(i) of the Arizona Water Settlements Act (Public Law 108–451; 118 Stat. 3533) on the covered land.

(B) INCLUSION.—Notwithstanding subsection (e), the jurisdiction under subparagraph (A) shall include access to the Cragin Project by the District.

(2) RESPONSIBILITY OF SECRETARY OF THE INTERIOR AND DISTRICT.—In accordance with paragraphs (4)(B) and (5) of section 213(i) of the Arizona Water Settlements Act (Public Law 108–451; 118 Stat. 3533), the Secretary of the Interior and the District shall—

(A) ensure the compliance of each activity carried out at the Cragin Project with each applicable Federal environmental law (including regulations); and

(B) coordinate with appropriate Federal agencies in ensuring the compliance under subparagraph (A).

(e) LAND MANAGEMENT ACTIVITIES ON COVERED LAND.—

(1) IN GENERAL.—The Secretary shall have administrative jurisdiction over land management activities on the covered land and other appropriate management activities pursuant to an agreement under paragraph (2) that do not conflict with, or adversely affect, the operation, maintenance, or replacement (including repair) of the Cragin Project, as determined by the Secretary of the Interior.

(2) INTERAGENCY AGREEMENT.—The Secretary and the Secretary of the Interior, in coordination with the District, may enter into an agreement under which the Secretary may—

(A) undertake any other appropriate management activity in accordance with applicable law that will improve the management and safety of the covered land and other land managed by the Secretary if the activity does not conflict with, or adversely affect, the operation, maintenance, or replacement (including repair) of the Cragin Project, as determined by the Secretary of the Interior; and

(B) carry out any emergency activities, such as fire suppression, on the covered land.

SEC. 8007. LEADVILLE MINE DRAINAGE TUNNEL.

(a) TUNNEL MAINTENANCE; OPERATION AND MAINTENANCE.—Section 703 of the Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102-575; 106 Stat. 4656) is amended to read as follows:

''SEC. 703. TUNNEL MAINTENANCE; OPERATION AND MAINTENANCE.

''(a) LEADVILLE MINE DRAINAGE TUNNEL.—The Secretary shall take any action necessary to maintain the structural integrity of the Leadville Mine Drainage Tunnel—

''(1) to maintain public safety; and

''(2) to prevent an uncontrolled release of water.

''(b) WATER TREATMENT PLANT.—

''(1) IN GENERAL.—Subject to section 705, the Secretary shall be responsible for the operation and maintenance of the water treatment plant authorized under section 701, including any sludge disposal authorized under this title.

''(2) AUTHORITY TO OFFER TO ENTER INTO CONTRACTS.—In carrying out paragraph (1), the Secretary may offer to enter into 1 or more contracts with any appropriate individual or entity for the conduct of any service required under paragraph (1).''.

(b) REIMBURSEMENT.—Section 705 of the Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102-575; 106 Stat. 4656) is amended—

(1) by striking ''The treatment plant'' and inserting the following:

''(a) IN GENERAL.—Except as provided in subsection (b), the treatment plant''; and

(2) by adding at the end the following:

''(b) EXCEPTION.—The Secretary may—

''(1) enter into an agreement with any other entity or government agency to provide funding for an increase in any operation, maintenance, replacement, capital improvement, or expansion cost that is necessary to improve or expand the treatment plant; and

''(2) upon entering into an agreement under paragraph (1)—

''(A) make any necessary capital improvement to or expansion of the treatment plant; and

''(B) treat flows that are conveyed to the treatment plant, including any—

''(i) surface water diverted into the Leadville Mine Drainage Tunnel; and

''(ii) water collected by the dewatering relief well installed in June 2008.''.

(c) USE OF LEADVILLE MINE DRAINAGE TUNNEL AND TREATMENT PLANT.—Section 708(a) of the Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102–575; 106 Stat. 4657) is amended—

(1) by striking ''(a) The Secretary'' and inserting the following:

''(a) IN GENERAL.—

''(1) AUTHORIZATION.—The Secretary'';

(2) by striking ''Neither'' and inserting the following:

''(2) LIABILITY.—Neither'';

(3) by striking ''The Secretary shall have'' and inserting the following:

''(3) FACILITIES COVERED UNDER OTHER LAWS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall have'';

(4) by inserting after ''Recovery Act.'' the following:

''(B) EXCEPTION.—If the Administrator of the Environmental Protection Agency proposes to amend or issue a new Record of Decision for operable unit 6 of the California Gulch National Priorities List Site, the Administrator shall consult with the Secretary with respect to each feature of the proposed new or amended Record of Decision that may require any alteration to, or otherwise affect the operation and maintenance of—

''(i) the Leadville Mine Drainage Tunnel; or

''(ii) the water treatment plant authorized under section 701.

''(4) AUTHORITY OF SECRETARY.—The Secretary may implement any improvement to, or new operation of, the Leadville Mine Drainage Tunnel or water treatment plant authorized under section 701 as a result of a new or amended Record of Decision only upon entering into an agreement with the Administrator of the Environmental Protection Agency or any other entity or government agency to provide funding for the improvement or new operation.''; and

(5) by striking ''For the purpose of'' and inserting the following:

''(5) DEFINITION OF UPPER ARKANSAS RIVER BASIN.—In''.

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 708(f) of the Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102-575; 106 Stat. 4657) is amended by striking ''sections 707 and 708'' and inserting ''this section and sections 703, 705, and 707''.

(e) CONFORMING AMENDMENT.—The table of contents of title VII of the Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102–575; 106 Stat. 4601) is amended by striking the item relating to section 703 and inserting the following:

''Sec. 703. Tunnel maintenance; operation and maintenance.''.

SEC. 8008. REAUTHORIZATION OF BASE FUNDING FOR FISH RECOVERY PROGRAMS.

Section 3(d)(2) of Public Law 106-392 (114 Stat. 1604) is amended by adding at the end the following: ''For each of fiscal years 2012 through 2023, there are authorized to be appropriated such sums as may be necessary to provide for the annual base funding for the Recovery Implementation Programs above and beyond the continued use of power revenues to fund the operation and maintenance of capital projects and monitoring.''.

TITLE LXXXI—HYDROPOWER

SEC. 8101. AMERICAN FALLS RESERVOIR HYDRO LICENSE EXTENSION.

Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission project numbered 12423, the Federal Energy Regulatory Commission shall, at the request of the licensee for the project, and after reasonable notice and in accordance with the procedures of the Commission under that section, reinstate the license and extend the time period during which the licensee is required to commence the construction of project works to the end of the 3-year period beginning on the date of enactment of this Act.

SEC. 8102. LITTLE WOOD RIVER RANCH HYDRO LICENSE EXTENSION.

Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission project numbered 12063, the Federal Energy Regulatory Commission shall, at the request of the licensee for the project, and after reasonable notice and in accordance with the procedures of the Commission under that section—

(1) extend the time period during which the licensee is required to commence the construction of project works to the end of the 3-year period beginning on the date of enactment of this Act; or

(2) if the license for Project No. 12063 has been terminated, reinstate the license and extend the time period during which the licensee is required to commence the construction of project works to the end of the 3-year period beginning on the date of enactment of this Act.

SEC. 8103. BONNEVILLE UNIT HYDROPOWER.

(a) DIAMOND FORK SYSTEM DEFINED.—For the purposes of this section, the term ''Diamond Fork System'' means the facilities described in chapter 4 of the October 2004 Supplement to the 1988 Definite Plan Report for the Bonneville Unit.

(b) COST ALLOCATIONS.—Notwithstanding any other provision of law, in order to facilitate hydropower development on the Diamond Fork System, the amount of reimbursable costs allocated to project power in Chapter 6 of the Power Appendix in the October 2004 Supplement to the 1988 Bonneville Unit Definite Plan Report, with regard to power development within the Diamond Fork System, shall be considered final costs as well as costs in excess of the total maximum repayment obligation as defined in section 211 of the Central Utah Project Completion Act of 1992 (Public Law 102–575), and shall be subject to the same terms and conditions.

(c) NO PURCHASE OR MARKET OBLIGATION; NO COSTS ASSIGNED TO POWER.—Nothing in this section shall obligate the Western Area Power Administration to purchase or market any of the power produced by the Diamond Fork power plant and none of the costs associated with development of transmission facilities to transmit power from the Diamond Fork power plant shall be assigned to power for the purpose of Colorado River Storage Project ratemaking.

(d) PROHIBITION ON TAX-EXEMPT FINANCING.—No facility for the generation or transmission of hydroelectric power on the Diamond Fork System may be financed or refinanced, in whole or in part, with proceeds of any obligation—

(1) the interest on which is exempt from the tax imposed under chapter 1 of the Internal Revenue Code of 1986, or

(2) with respect to which credit is allowable under subpart I or J of part IV of subchapter A of chapter 1 of such Code.

(e) REPORTING REQUIREMENT.—If, 24 months after the date of the enactment of this Act, hydropower production on the Diamond Fork System has not commenced, the Secretary of the Interior shall submit a report to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate stating this fact, the reasons such production has not yet commenced, and a detailed timeline for future hydropower production.

(f) LIMITATION ON THE USE OF FUNDS.—The authority under the provisions of section 301 of the Hoover Power Plant Act of 1984 (Public Law 98–381; 42 U.S.C. 16421a) shall not be used to fund any study or construction of transmission facilities developed as a result of this section.

SEC. 8104. HOOVER POWER PLANT ALLOCATION.

(a) SCHEDULE A POWER.—Section 105(a)(1)(A) of the Hoover Power Plant Act of 1984 (43 U.S.C. 619a(a)(1)(A)) is amended—

(1) by striking ''renewal'';

(2) by striking ''June 1, 1987'' and inserting ''October 1, 2017''; and

(3) by striking Schedule A and inserting the following:

''Schedule A

Long-term Schedule A contingent capacity and associated firm energy for offers of contracts to Boulder Canyon project contractors

Contractor	Contingent capacity (kW)	Firm energy (thousands of kWh)		
		Summer	Winter	Total
Metropolitan Water District of Southern California	249,948	859,163	368,212	1,227,375
City of Los Angeles	495,732	464,108	199,175	663,283
Southern California Edison Company	280,245	166,712	71,448	238,160
City of Glendale	18,178	45,028	19,297	64,325
City of Pasadena	11,108	38,622	16,553	55,175
City of Burbank	5,176	14,070	6,030	20,100
Arizona Power Authority	190,869	429,582	184,107	613,689
Colorado River Commission of Nevada	190,869	429,582	184,107	613,689
United States, for Boulder City	20,198	53,200	22,800	76,000
Totals	1,462,323	2,500,067	1,071,729	3,571,796''.

(b) SCHEDULE B POWER.—Section 105(a)(1)(B) of the Hoover Power Plant Act of 1984 (43 U.S.C. 619a(a)(1)(B)) is amended to read as follows:

''(B) To each existing contractor for power generated at Hoover Dam, a contract, for delivery commencing October 1, 2017, of the amount of contingent capacity and firm energy specified for that contractor in the following table:

''Schedule B

Long-term Schedule B contingent capacity and associated firm energy for offers of contracts to Boulder Canyon project contractors

Contractor	Contingent capacity (kW)	Firm energy (thousands of kWh)		
		Summer	Winter	Total
City of Glendale	2,020	2,749	1,194	3,943
City of Pasadena	9,089	2,399	1,041	3,440
City of Burbank	15,149	3,604	1,566	5,170
City of Anaheim	40,396	34,442	14,958	49,400

''Schedule B—Continued

Long-term Schedule B contingent capacity and associated firm energy for offers of contracts to Boulder Canyon project contractors

Contractor	Contingent capacity (kW)	Firm energy (thousands of kWh)		
		Summer	Winter	Total
City of Azusa	4,039	3,312	1,438	4,750
City of Banning	2,020	1,324	576	1,900
City of Colton	3,030	2,650	1,150	3,800
City of Riverside	30,296	25,831	11,219	37,050
City of Vernon	22,218	18,546	8,054	26,600
Arizona	189,860	140,600	60,800	201,400
Nevada	189,860	273,600	117,800	391,400
Totals	507,977	509,057	219,796	728,853''.

(c) SCHEDULE C POWER.—Section 105(a)(1)(C) of the Hoover Power Plant Act of 1984 (43 U.S.C. 619a(a)(1)(C)) is amended—

(1) by striking ''June 1, 1987'' and inserting ''October 1, 2017''; and

(2) by striking Schedule C and inserting the following:

''Schedule C

Excess Energy

Priority of entitlement to excess energy	State
First: Meeting Arizona's first priority right to delivery of excess energy which is equal in each year of operation to 200 million kilowatthours: Provided, That in the event excess energy in the amount of 200 million kilowatthours is not generated during any year of operation, Arizona shall accumulate a first right to delivery of excess energy subsequently generated in an amount not to exceed 600 million kilowatthours, inclusive of the current year's 200 million kilowatthours. Said first right of delivery shall accrue at a rate of 200 million kilowatthours per year for each year excess energy in an amount of 200 million kilowatthours is not generated, less amounts of excess energy delivered.	Arizona
Second: Meeting Hoover Dam contractual obligations under Schedule A of subsection (a)(1)(A), under Schedule B of subsection (a)(1)(B), and under Schedule D of subsection (a)(2), not exceeding 26 million kilowatthours in each year of operation.	Arizona, Nevada, and California
Third: Meeting the energy requirements of the three States, such available excess energy to be divided equally among the States.	Arizona, Nevada, and California''.

(d) SCHEDULE D POWER.—Section 105(a) of the Hoover Power Plant Act of 1984 (43 U.S.C. 619a(a)) is amended—

(1) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively; and

(2) by inserting after paragraph (1) the following:

''(2)(A) The Secretary of Energy is authorized to and shall create from the apportioned allocation of contingent capacity and firm energy adjusted from the amounts authorized in this Act in 1984 to the amounts shown in Schedule A and Schedule B, as modified by the America's Great Outdoors Act of 2010, a resource pool equal to 5 percent of the full rated capacity of 2,074,000 kilowatts, and associated firm energy, as shown in Schedule D (referred to in this section as 'Schedule D contingent capacity and firm energy'):

''Schedule D

Long-term Schedule D resource pool of contingent capacity and associated firm energy for new allottees

State	Contingent capacity (kW)	Firm energy (thousands of kWh)		
		Summer	Winter	Total
New Entities Allocated by the Secretary of Energy	69,170	105,637	45,376	151,013
New Entities Allocated by State				
Arizona	11,510	17,580	7,533	25,113
California	11,510	17,580	7,533	25,113
Nevada	11,510	17,580	7,533	25,113
Totals	103,700	158,377	67,975	226,352

''(B) The Secretary of Energy shall offer Schedule D contingency capacity and firm energy to entities not receiving contingent capacity and firm energy under subparagraphs (A) and (B) of paragraph (1) (referred to in this section as 'new allottees') for delivery commencing October 1, 2017 pursuant to this subsection. In this subsection, the term 'the marketing area for the Boulder City Area Projects' shall have the same meaning as in appendix A of the General Consolidated Power Marketing Criteria or Regulations for Boulder City Area Projects published in the Federal Register on December 28, 1984 (49 Federal Register 50582 et seq.) (referred to in this section as the 'Criteria').

''(C)(i) Within 36 months of the date of enactment of the America's Great Outdoors Act of 2010, the Secretary of Energy shall allocate through the Western Area Power Administration (referred to in this section as 'Western'), for delivery commencing October 1, 2017, for use in the marketing area for the Boulder City Area Projects 66.7 percent of the Schedule D contingent capacity and firm energy to new allottees that are located within the marketing area for the Boulder City Area Projects and that are—

''(I) eligible to enter into contracts under section 5 of the Boulder Canyon Project Act (43 U.S.C. 617d); or

''(II) federally recognized Indian tribes.

''(ii) In the case of Arizona and Nevada, Schedule D contingent capacity and firm energy for new allottees other than federally recognized Indian tribes shall be offered through the Arizona Power Authority and the Colorado River Commission of Nevada, respectively. Schedule D contingent capacity and firm energy allocated to federally recognized Indian tribes shall be contracted for directly with Western.

''(D) Within 1 year of the date of enactment of the America's Great Outdoors Act of 2010, the Secretary of Energy also shall allocate, for delivery commencing October 1, 2017, for use in the marketing area for the Boulder City Area Projects 11.1 percent of the Schedule D contingent capacity and firm energy to each of—

''(i) the Arizona Power Authority for allocation to new allottees in the State of Arizona;

''(ii) the Colorado River Commission of Nevada for allocation to new allottees in the State of Nevada; and

''(iii) Western for allocation to new allottees within the State of California, provided that Western shall have 36 months to complete such allocation.

''(E) Each contract offered pursuant to this subsection shall include a provision requiring the new allottee to pay a proportionate share of its State's respective contribution (determined in accordance with each State's applicable funding agreement) to the cost of the Lower Colorado River Multi-Species Conservation Program (as defined in section 9401 of the Omnibus Public Land Management Act of 2009 (Public Law 111–11; 123 Stat. 1327)), and to execute the Boulder Canyon Project Implementation Agreement Contract

No. 95–PAO–10616 (referred to in this section as the 'Implementation Agreement').

''(F) Any of the 66.7 percent of Schedule D contingent capacity and firm energy that is to be allocated by Western that is not allocated and placed under contract by October 1, 2017, shall be returned to those contractors shown in Schedule A and Schedule B in the same proportion as those contractors' allocations of Schedule A and Schedule B contingent capacity and firm energy. Any of the 33.3 percent of Schedule D contingent capacity and firm energy that is to be distributed within the States of Arizona, Nevada, and California that is not allocated and placed under contract by October 1, 2017, shall be returned to the Schedule A and Schedule B contractors within the State in which the Schedule D contingent capacity and firm energy were to be distributed, in the same proportion as those contractors' allocations of Schedule A and Schedule B contingent capacity and firm energy.''.

(e) TOTAL OBLIGATIONS.—Paragraph (3) of section 105(a) of the Hoover Power Plant Act of 1984 (43 U.S.C. 619a(a)) (as redesignated as subsection (d)(1)) is amended—

(1) in the first sentence, by striking ''schedule A of section 105(a)(1)(A) and schedule B of section 105(a)(1)(B)'' and inserting ''paragraphs (1)(A), (1)(B), and (2)''; and

(2) in the second sentence—

(A) by striking ''any'' and inserting ''each'';

(B) by striking ''schedule C'' and inserting ''Schedule C''; and

(C) by striking ''schedules A and B'' and inserting ''Schedules A, B, and D''.

(f) POWER MARKETING CRITERIA.—Paragraph (4) of section 105(a) of the Hoover Power Plant Act of 1984 (43 U.S.C. 619a(a)) (as redesignated as subsection (d)(1)) is amended to read as follows:

''(4) Subdivision E of the Criteria shall be deemed to have been modified to conform to this section, as modified by the America's Great Outdoors Act of 2010. The Secretary of Energy shall cause to be included in the Federal Register a notice conforming the text of the regulations to such modifications.''.

(g) CONTRACT TERMS.—Paragraph (5) of section 105(a) of the Hoover Power Plant Act of 1984 (43 U.S.C. 619a(a)) (as redesignated as subsection (d)(1)) is amended—

(1) by striking subparagraph (A) and inserting the following:

''(A) in accordance with section 5(a) of the Boulder Canyon Project Act (43 U.S.C. 617d(a)), expire September 30, 2067;'';

(2) in the proviso of subparagraph (B)—

(A) by striking ''shall use'' and inserting ''shall allocate''; and

(B) by striking ''and'' after the semicolon at the end;

(3) in subparagraph (C), by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following:

''(D) authorize and require Western to collect from new allottees a pro rata share of Hoover Dam repayable advances paid for by contractors prior to October 1, 2017, and remit such amounts to the contractors that paid such advances in proportion to the amounts paid by such contractors as specified in section 6.4 of the Implementation Agreement;

''(E) permit transactions with an independent system operator; and

''(F) contain the same material terms included in section 5.6 of those long-term contracts for purchases from the Hoover Power Plant that were made in accordance with this Act and are in existence on the date of enactment of the America's Great Outdoors Act of 2010.''.

(h) EXISTING RIGHTS.—Section 105(b) of the Hoover Power Plant Act of 1984 (43 U.S.C. 619a(b)) is amended by striking ''2017'' and inserting ''2067''.

(i) OFFERS.—Section 105(c) of the Hoover Power Plant Act of 1984 (43 U.S.C. 619a(c)) is amended to read as follows:

''(c) OFFER OF CONTRACT TO OTHER ENTITIES.—If any existing contractor fails to accept an offered contract, the Secretary of Energy shall offer the contingent capacity and firm energy thus available first to other entities in the same State listed in Schedule A and Schedule B, second to other entities listed in Schedule A and Schedule B, third to other entities in the same State which receive contingent capacity and firm energy under subsection (a)(2) of this section, and last to other entities which receive contingent capacity and firm energy under subsection (a)(2) of this section.''.

(j) AVAILABILITY OF WATER.—Section 105(d) of the Hoover Power Plant Act of 1984 (43 U.S.C. 619a(d) is amended to read as follows:

''(d) WATER AVAILABILITY.—Except with respect to energy purchased at the request of an allottee pursuant to subsection (a)(3), the obligation of the Secretary of Energy to deliver contingent capacity and firm energy pursuant to contracts entered into pursuant to this section shall be subject to availability of the water needed to produce such contingent capacity and firm energy. In the event that water is not available to produce the contingent capacity and firm energy set forth in Schedule A, Schedule B, and Schedule D, the Secretary of Energy shall adjust the contingent capacity and firm energy offered under those Schedules in the same proportion as those contractors' allocations of Schedule A, Schedule B, and Schedule D contingent capacity and firm energy bears to the full rated contingent capacity and firm energy obligations.''.

(k) CONFORMING AMENDMENTS.—Section 105 of the Hoover Power Plant Act of 1984 (43 U.S.C. 619a) is amended—

(1) by striking subsections (e) and (f); and

(2) by redesignating subsections (g), (h), and (i) as subsections (e), (f), and (g), respectively.

(l) CONTINUED CONGRESSIONAL OVERSIGHT.—Subsection (e) of section 105 of the Hoover Power Plant Act of 1984 (43 U.S.C. 619a)) (as redesignated by subsection (k)(2)) is amended—

(1) in the first sentence, by striking ''the renewal of''; and

(2) in the second sentence, by striking ''June 1, 1987, and ending September 30, 2017'' and inserting ''October 1, 2017, and ending September 30, 2067''.

(m) COURT CHALLENGES.—Subsection (f)(1) of section 105 of the Hoover Power Plant Act of 1984 (43 U.S.C. 619a) (as redesignated by subsection (k)(2)) is amended in the first sentence by striking ''this Act'' and inserting ''the America's Great Outdoors Act of 2010''.

(n) REAFFIRMATION OF CONGRESSIONAL DECLARATION OF PURPOSE.—Subsection (g) of section 105 of the Hoover Power Plant Act of 1984 (43 U.S.C. 619a) (as redesignated by subsection (k)(2)) is amended—

(1) by striking ''subsections (c), (g), and (h) of this section'' and inserting ''this Act''; and

(2) by striking ''June 1, 1987, and ending September 30, 2017'' and inserting ''October 1, 2017, and ending September 30, 2067''.

TITLE LXXXII—MISCELLANEOUS

SEC. 8201. UINTAH WATER CONSERVANCY DISTRICT PREPAYMENT.

The Secretary of the Interior shall allow for prepayment of the repayment contract no. 6–05–01–00143 between the United States and the Uintah Water Conservancy District dated June 3, 1976, and supplemented and amended on November 1, 1985, and on December 30, 1992, providing for repayment of municipal and industrial water delivery facilities for which repayment is provided pursuant to such contract, under terms and conditions similar to those used in implementing section 210 of the Central Utah Project Completion Act (Public Law 102–575), as amended. The prepayment—

(1) shall result in the United States recovering the net present value of all repayment streams that would have been payable to the United States if this section was not in effect;

(2) may be provided in several installments to reflect substantial completion of the delivery facilities being prepaid, and any increase in the repayment obligation resulting from delivery of water in addition to the water being delivered under this contract as of the date of enactment of this Act;

(3) shall be adjusted to conform to a final cost allocation including costs incurred by the Bureau of Reclamation, but unallocated as of the date of the enactment of this Act that are allocable to the water delivered under this contract;

(4) may not be adjusted on the basis of the type of prepayment financing used by the District; and

(5) shall be made such that total repayment is made not later than September 30, 2019.

SEC. 8202. TULE RIVER TRIBE WATER DEVELOPMENT.

(a) DEFINITIONS.—In this section:

(1) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Commissioner of Reclamation.

(2) TRIBE.—The term ''Tribe'' means the Tule River Indian Tribe of the Tule River Reservation in the State of California.

(b) STUDY AND REPORT ON ALTERNATIVES.—

(1) STUDY.—Not later than 2 years after the date on which funds are made available under paragraph (3), the Secretary shall complete a feasibility study to evaluate alternatives (including alternatives for phase I reservoir storage of a quantity of water of not more than 5,000 acre-feet) for the provision of a domestic, commercial, municipal, industrial, and irrigation water supply for the Tribe.

(2) REPORT.—On completion of the study under subsection (a), the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committees on Energy and Natural Resources and Indian Affairs of the Senate a report describing the results of the study.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this subsection such sums as are necessary.

(c) CONDITIONS FOR FUTURE PROJECTS.—

(1) IN GENERAL.—No project constructed relating to the feasibility study under subsection (b) shall provide any water supply for—

(A) the casino of the Tule River Tribe, as in existence on the date of enactment of this Act;

(B) any expansion of that casino;

(C) any other tribal casino; or

(D) any current or future lodging, dining, entertainment, meeting space, parking, or other similar facility in support of a gaming activity.

(2) AVAILABILITY OF WATER SUPPLIES.—A water supply provided by a project constructed relating to the feasibility study under subsection (b) shall be available to serve—

(A) the domestic, municipal, and governmental (including firefighting) needs of the Tribe and members of the Tribe; and

(B) other commercial, agricultural, and industrial needs not related to a gaming activity.

SEC. 8203. INLAND EMPIRE GROUND WATER ASSESSMENT.

(a) IN GENERAL.—Not later than 2 years after funds are made available to carry out this section, the Secretary of the Interior, acting through the Director of the United States Geological Survey, shall complete a study of water resources in the Rialto-Colton Basin in the State of California (in this section referred to as the ''Basin''), including—

(1) a survey of ground water resources in the Basin, including an analysis of—

(A) the delineation, either horizontally or vertically, of the aquifers in the Basin, including the quantity of water in the aquifers;

(B) the availability of ground water resources for human use;

(C) the salinity of ground water resources;

(D) the identification of a recent surge in perchlorate concentrations in ground water, whether significant sources are being flushed through the vadose zone, or if perchlorate is being remobilized;

(E) the identification of impacts and extents of all source areas that contribute to the regional plume to be fully characterized;

(F) the potential of the ground water resources to recharge;

(G) the interaction between ground water and surface water;

(H) the susceptibility of the aquifers to contamination, including identifying the extent of commingling of plume emanating within surrounding areas in San Bernardino County, California; and

(I) any other relevant criteria; and

(2) a characterization of surface and bedrock geology of the Basin, including the effect of the geology on ground water yield and quality.

(b) COORDINATION.—The Secretary shall carry out the study in coordination with the State of California and any other entities that the Secretary determines to be appropriate, including other Federal agencies and institutions of higher education.

(c) REPORT.—Upon completion of the study, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a report that describes the results of the study.

DIVISION I—INSULAR AREAS

SEC. 9001. CONVEYANCE OF CERTAIN SUBMERGED LAND TO THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.

(a) IN GENERAL.—The first section of Public Law 93–435 (48 U.S.C. 1705) is amended by inserting ''the Commonwealth of the Northern mariana Islands,'' after ''Guam,'' each place it appears.

(b) REFERENCES TO DATE OF ENACTMENT.—For the purposes of the amendment made by subsection (a), each reference in Public Law 93–435 (48 U.S.C. 1705) to the ''date of enactment'' shall be considered to be reference to the date of the enactment of this Act.

DIVISION J—WILDLIFE CONSERVATION AND WATER QUALITY PROTECTION AND RESTORATION

TITLE C—WILDLIFE AND WILDLIFE HABITAT CONSERVATION

Subtitle A—National Fish Habitat Conservation

SEC. 10001. SHORT TITLE.

This subtitle may be cited as the ''National Fish Habitat Conservation Act''.

SEC. 10002. FINDINGS; PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) healthy populations of fish and other aquatic organisms depend on the conservation, protection, restoration, and enhancement of aquatic habitats in the United States;

(2) aquatic habitats (including wetlands, streams, rivers, lakes, estuaries, coastal and marine ecosystems, and associated riparian upland habitats that buffer those areas from external factors) perform numerous valuable environmental functions that sustain environmental, social, and cultural values, including recycling nutrients, purifying water, attenuating floods, augmenting and maintaining stream flows, recharging ground water, acting as primary producers in the food chain, and providing essential and significant habitat for plants, fish, wildlife, and other dependent species;

(3) the extensive and diverse aquatic habitat resources of the United States are of enormous significance to the economy of the United States, providing—

(A) recreation for 44,000,000 anglers;

(B) more than 1,000,000 jobs and approximately $125,000,000,000 in economic impact each year relating to recreational fishing; and

(C) approximately 500,000 jobs and an additional $35,000,000,000 in economic impact each year relating to commercial fishing;

(4) at least 40 percent of all threatened species and endangered species in the United States are directly dependent on aquatic habitats;

(5) certain fish species are considered to be ecological indicators of aquatic habitat quality, such that the presence of those species in an aquatic ecosystem reflects high-quality habitat for other fish;

(6) loss and degradation of aquatic habitat, riparian habitat, water quality, and water volume caused by activities such as alteration of watercourses, stream blockages, water withdrawals and diversions, erosion, pollution, sedimentation, and destruction or modification of wetlands have—

(A) caused significant declines in fish populations throughout the United States, especially declines in native fish populations; and

(B) resulted in economic losses to the United States;

(7)(A) providing for the conservation and sustainability of fish and other aquatic organisms has not been fully realized, despite federally funded fish and wildlife restoration programs and other activities intended to conserve aquatic resources; and

(B) conservation and sustainability may be significantly advanced through a renewed commitment and sustained, cooperative efforts that are complementary to existing fish and wildlife restoration programs and clean water programs;

(8) the National Fish Habitat Action Plan provides a framework for maintaining and restoring aquatic habitats to ensure perpetuation of populations of fish and other aquatic organisms;

(9) the United States can achieve significant progress toward providing aquatic habitats for the conservation and restoration of fish and other aquatic organisms through a voluntary, nonregulatory incentive program that is based on technical and financial assistance provided by the Federal Government;

(10) the creation of partnerships between local citizens, Indian tribes, Alaska Native organizations, corporations, nongovernmental organizations, and Federal, State, and tribal agencies is critical to the success of activities to restore aquatic habitats and ecosystems;

(11) the Federal Government has numerous regulatory and land and water management agencies that are critical to the implementation of the National Fish Habitat Action Plan, including—

(A) the United States Fish and Wildlife Service;

(B) the Bureau of Land Management;

(C) the National Park Service;

(D) the Bureau of Reclamation;

(E) the Bureau of Indian Affairs;

(F) the National Marine Fisheries Service;

(G) the Forest Service;

(H) the Natural Resources Conservation Service; and

(I) the Environmental Protection Agency;

(12) the United States Fish and Wildlife Service, the Forest Service, the Bureau of Land Management, and the National Marine Fisheries Service each play a vital role in—

(A) the protection, restoration, and enhancement of fish communities and aquatic habitats in the United States; and

(B) the development, operation, and long-term success of fish habitat partnerships and project implementation;

(13) the United States Geological Survey, the United States Fish and Wildlife Service, and the National Marine Fisheries Service each play a vital role in scientific evaluation, data collection, and mapping for fishery resources in the United States; and

(14) many of the programs for conservation on private farmland, ranchland, and forestland that are carried out by the Secretary of Agriculture, including the Natural Resources Conservation Service and the State and private forestry programs of the Forest Service, are able to significantly contribute to the implementation of the National Fish Habitat Action Plan through the engagement of private landowners.

(b) PURPOSE.—The purpose of this subtitle is to encourage partnerships among public agencies and other interested parties consistent with the mission and goals of the National Fish Habitat Action Plan—

(1) to protect and maintain intact and healthy aquatic habitats;

(2) to prevent further degradation of aquatic habitats that have been adversely affected;

(3) to reverse declines in the quality and quantity of aquatic habitats to improve the overall health of fish and other aquatic organisms;

(4) to increase the quality and quantity of aquatic habitats that support a broad natural diversity of fish and other aquatic species;

(5) to improve fisheries habitat in a manner that leads to improvement of the annual economic output from recreational, subsistence, and commercial fishing;

(6) to ensure coordination and facilitation of activities carried out by Federal departments and agencies under the leadership of—

(A) the Director of the United States Fish and Wildlife Service;

(B) the Assistant Administrator for Fisheries of the National Oceanic and Atmospheric Administration; and

(C) the Director of the United States Geological Survey; and

(7) to achieve other purposes in accordance with the mission and goals of the National Fish Habitat Action Plan.

SEC. 10003. DEFINITIONS.

In this subtitle:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means—

(A) the Committee on Commerce, Science, and Transportation, and the Committee on Environment and Public Works, of the Senate; and

(B) the Committee on Natural Resources of the House of Representatives.

(2) AQUATIC HABITAT.—

(A) IN GENERAL.—The term ''aquatic habitat'' means any area on which an aquatic organism depends, directly or indirectly, to carry out the life processes of the organism, including an area used by the organism for spawning, incubation, nursery, rearing,

growth to maturity, food supply, or migration.

(B) INCLUSIONS.—The term ''aquatic habitat'' includes an area adjacent to an aquatic environment, if the adjacent area—

(i) contributes an element, such as the input of detrital material or the promotion of a planktonic or insect population providing food, that makes fish life possible;

(ii) protects the quality and quantity of water sources;

(iii) provides public access for the use of fishery resources; or

(iv) serves as a buffer protecting the aquatic environment.

(3) ASSISTANT ADMINISTRATOR.—The term ''Assistant Administrator'' means the Assistant Administrator for Fisheries of the National Oceanic and Atmospheric Administration.

(4) BOARD.—The term ''Board'' means the National Fish Habitat Board established by section 10004(a)(1).

(5) CONSERVATION; CONSERVE; MANAGE; MANAGEMENT.—The terms ''conservation'', ''conserve'', ''manage'', and ''management'' mean to protect, sustain, and, if appropriate, restore and enhance, using methods and procedures associated with modern scientific resource programs (including protection, research, census, law enforcement, habitat management, propagation, live trapping and transplantation, and regulated taking)—

(A) a healthy population of fish, wildlife, or plant life;

(B) a habitat required to sustain fish, wildlife, or plant life; or

(C) a habitat required to sustain fish, wildlife, or plant life productivity.

(6) DIRECTOR.—The term ''Director'' means the Director of the United States Fish and Wildlife Service.

(7) FISH.—

(A) IN GENERAL.—The term ''fish'' means any freshwater, diadromous, estuarine, or marine finfish or shellfish.

(B) INCLUSIONS.—The term ''fish'' includes the egg, spawn, spat, larval, and other juvenile stages of an organism described in subparagraph (A).

(8) FISH HABITAT CONSERVATION PROJECT.—

(A) IN GENERAL.—The term ''fish habitat conservation project'' means a project that—

(i) is submitted to the Board by a Partnership and approved by the Secretary under section 10006; and

(ii) provides for the conservation or management of an aquatic habitat.

(B) INCLUSIONS.—The term ''fish habitat conservation project'' includes—

(i) the provision of technical assistance to a State, Indian tribe, or local community by the National Fish Habitat Conservation Partnership Office or any other agency to facilitate the development of strategies and priorities for the conservation of aquatic habitats; and

(ii) the obtaining of a real property interest in land or water, including water rights, in accordance with terms and conditions that ensure that the real property will be administered for the long-term conservation of—

(I) the land or water; and

(II) the fish dependent on the land or water.

(9) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(10) NATIONAL FISH HABITAT ACTION PLAN.—The term ''National Fish Habitat Action Plan'' means the National Fish Habitat Action Plan dated April 24, 2006, and any subsequent revisions or amendments to that plan.

(11) PARTNERSHIP.—The term ''Partnership'' means an entity designated by the Board as a Fish Habitat Conservation Partnership pursuant to section 10005(a).

(12) REAL PROPERTY INTEREST.—The term ''real property interest'' means an ownership interest in—

(A) land;

(B) water (including water rights); or

(C) a building or object that is permanently affixed to land.

(13) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(14) STATE AGENCY.—The term ''State agency'' means—

(A) the fish and wildlife agency of a State;

(B) any department or division of a department or agency of a State that manages in the public trust the inland or marine fishery resources or the habitat for those fishery resources of the State pursuant to State law or the constitution of the State; or

(C) the fish and wildlife agency of the Commonwealth of Puerto Rico, Guam, the United States Virgin Islands, or any other territory or possession of the United States.

SEC. 10004. NATIONAL FISH HABITAT BOARD.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established a board, to be known as the ''National Fish Habitat Board''—

(A) to promote, oversee, and coordinate the implementation of this subtitle and the National Fish Habitat Action Plan;

(B) to establish national goals and priorities for aquatic habitat conservation;

(C) to designate Partnerships; and

(D) to review and make recommendations regarding fish habitat conservation projects.

(2) MEMBERSHIP.—The Board shall be composed of 27 members, of whom—

(A) 1 shall be the Director;

(B) 1 shall be the Assistant Administrator;

(C) 1 shall be the Chief of the Natural Resources Conservation Service;

(D) 1 shall be the Chief of the Forest Service;

(E) 1 shall be the Assistant Administrator for Water of the Environmental Protection Agency;

(F) 1 shall be the President of the Association of Fish and Wildlife Agencies;

(G) 1 shall be the Secretary of the Board of Directors of the National Fish and Wildlife Foundation appointed pursuant to section 3(g)(2)(B) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3702(g)(2)(B));

(H) 4 shall be representatives of State agencies, 1 of whom shall be nominated by a regional association of fish and wildlife agencies from each of the Northeast, Southeast, Midwest, and Western regions of the United States;

(I) 1 shall be a representative of the American Fisheries Society;

(J) 2 shall be representatives of Indian tribes, of whom—

(i) 1 shall represent Indian tribes from the State of Alaska; and

(ii) 1 shall represent Indian tribes from the other States;

(K) 1 shall be a representative of the Regional Fishery Management Councils established under section 302 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852);

(L) 1 shall be a representative of the Marine Fisheries Commissions, which is composed of—

(i) the Atlantic States Marine Fisheries Commission;

(ii) the Gulf States Marine Fisheries Commission; and

(iii) the Pacific States Marine Fisheries Commission;

(M) 1 shall be a representative of the Sportfishing and Boating Partnership Council; and

(N) 10 shall be representatives selected from each of the following groups:

(i) The recreational sportfishing industry.

(ii) The commercial fishing industry.

(iii) Marine recreational anglers.

(iv) Freshwater recreational anglers.

(v) Terrestrial resource conservation organizations.

(vi) Aquatic resource conservation organizations.

(vii) The livestock and poultry production industry.

(viii) The land development industry.

(ix) The row crop industry.

(x) Natural resource commodity interests, such as petroleum or mineral extraction.

(3) COMPENSATION.—A member of the Board shall serve without compensation.

(4) TRAVEL EXPENSES.—A member of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Board.

(b) APPOINTMENT AND TERMS.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, a member of the Board described in any of subparagraphs (H) through (N) of subsection (a)(2) shall serve for a term of 3 years.

(2) INITIAL BOARD MEMBERSHIP.—

(A) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the representatives of the board established by the National Fish Habitat Action Plan shall appoint the initial members of the Board described in subparagraphs (H), (I), and (K) through (N) of subsection (a)(2).

(B) TRIBAL REPRESENTATIVES.—Not later than 180 days after the date of enactment of this Act, the Secretary shall provide to the board established by the National Fish Habitat Action Plan a recommendation of not less than 4 tribal representatives, from which that board shall appoint 2 representatives pursuant to subparagraph (J) of subsection (a)(2).

(3) TRANSITIONAL TERMS.—Of the members described in subsection (a)(2)(N) initially appointed to the Board—

(A) 4 shall be appointed for a term of 1 year;

(B) 4 shall be appointed for a term of 2 years; and

(C) 2 shall be appointed for a term of 3 years.

(4) VACANCIES.—

(A) IN GENERAL.—A vacancy of a member of the Board described in any of subparagraphs (H), (I), or (K) through (N) of subsection (a)(2) shall be filled by an appointment made by the remaining members of the Board.

(B) TRIBAL REPRESENTATIVES.—Following a vacancy of a member of the Board described in subparagraph (J) of subsection (a)(2), the Secretary shall recommend to the Board not less than 4 tribal representatives, from which the remaining members of the Board shall appoint a representative to fill the vacancy.

(5) CONTINUATION OF SERVICE.—An individual whose term of service as a member of the Board expires may continue to serve on the Board until a successor is appointed.

(6) REMOVAL.—If a member of the Board described in any of subparagraphs (H) through (N) of subsection (a)(2) misses 3 consecutive regularly scheduled Board meetings, the members of the Board may—

(A) vote to remove that member; and

(B) appoint another individual in accordance with paragraph (4).

(c) CHAIRPERSON.—

(1) IN GENERAL.—The Board shall elect a member of the Board to serve as Chairperson of the Board.

(2) TERM.—The Chairperson of the Board shall serve for a term of 3 years.

(d) MEETINGS.—

(1) IN GENERAL.—The Board shall meet—

(A) at the call of the Chairperson; but

(B) not less frequently than twice each calendar year.

(2) PUBLIC ACCESS.—All meetings of the Board shall be open to the public.

(e) PROCEDURES.—

(1) IN GENERAL.—The Board shall establish procedures to carry out the business of the Board, including—

(A) a requirement that a quorum of the members of the Board be present to transact business;

(B) a requirement that no recommendations may be adopted by the Board, except by the vote of ⅔ of all members present and voting;

(C) procedures for establishing national goals and priorities for aquatic habitat conservation for the purposes of this subtitle;

(D) procedures for designating Partnerships under section 10005; and

(E) procedures for reviewing, evaluating, and making recommendations regarding fish habitat conservation projects.

(2) QUORUM.—A majority of the members of the Board shall constitute a quorum.

SEC. 10005. FISH HABITAT PARTNERSHIPS.

(a) AUTHORITY TO DESIGNATE.—The Board may designate Fish Habitat Partnerships in accordance with this section.

(b) PURPOSES.—The purposes of a Partnership shall be—

(1) to coordinate the implementation of the National Fish Habitat Action Plan at a regional level;

(2) to identify strategic priorities for fish habitat conservation;

(3) to recommend to the Board fish habitat conservation projects that address a strategic priority of the Board; and

(4) to develop and carry out fish habitat conservation projects.

(c) APPLICATIONS.—An entity seeking to be designated as a Partnership shall submit to the Board an application at such time, in such manner, and containing such information as the Board may reasonably require.

(d) APPROVAL.—The Board may approve an application for a Partnership submitted under subsection (c) if the Board determines that the applicant—

(1) includes representatives of a diverse group of public and private partners, including Federal, State, or local governments, nonprofit entities, Indian tribes, and private individuals, that are focused on conservation of aquatic habitats to achieve results across jurisdictional boundaries on public and private land;

(2) is organized to promote the health of important aquatic habitats and distinct geographical areas, keystone fish species, or system types, including reservoirs, natural lakes, coastal and marine environments, and estuaries;

(3) identifies strategic fish and aquatic habitat priorities for the Partnership area in the form of geographical focus areas or key stressors or impairments to facilitate strategic planning and decisionmaking;

(4) is able to address issues and priorities on a nationally significant scale;

(5) includes a governance structure that—

(A) reflects the range of all partners; and

(B) promotes joint strategic planning and decisionmaking by the applicant;

(6) demonstrates completion of, or significant progress toward the development of, a strategic plan to address the causes of system decline in fish populations, rather than simply treating symptoms in accordance with the National Fish Habitat Action Plan; and

(7) ensures collaboration in developing a strategic vision and implementation program that is scientifically sound and achievable.

SEC. 10006. FISH HABITAT CONSERVATION PROJECTS.

(a) SUBMISSION TO BOARD.—Not later than March 31 of each calendar year, each Partnership shall submit to the Board a list of fish habitat conservation projects recommended by the Partnership for annual funding under this subtitle.

(b) RECOMMENDATIONS BY BOARD.—Not later than July 1 of each calendar year, the Board shall submit to the Secretary a description, including estimated costs, of each fish habitat conservation project that the Board recommends that the Secretary approve and fund under this subtitle, in order of priority, for the following fiscal year.

(c) CONSIDERATIONS.—The Board shall select each fish habitat conservation project to be recommended to the Secretary under subsection (b)—

(1) based on a recommendation of the Partnership that is, or will be, participating actively in carrying out the fish habitat conservation project; and

(2) after taking into consideration—

(A) the extent to which the fish habitat conservation project fulfills a purpose of this subtitle or a goal of the National Fish Habitat Action Plan;

(B) the extent to which the fish habitat conservation project addresses the national priorities established by the Board;

(C) the availability of sufficient non-Federal funds to match Federal contributions for the fish habitat conservation project, as required by subsection (e);

(D) the extent to which the fish habitat conservation project—

(i) increases fishing opportunities for the public;

(ii) will be carried out through a cooperative agreement among Federal, State, and local governments, Indian tribes, and private entities;

(iii) increases public access to land or water;

(iv) advances the conservation of fish and wildlife species that are listed, or are candidates to be listed, as threatened species or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(v) where appropriate, advances the conservation of fish and fish habitats under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) and other relevant Federal law and State wildlife action plans; and

(vi) promotes resilience such that desired biological communities are able to persist and adapt to environmental stressors such as climate change; and

(E) the substantiality of the character and design of the fish habitat conservation project.

(d) LIMITATIONS.—

(1) REQUIREMENTS FOR EVALUATION.—No fish habitat conservation project may be recommended by the Board under subsection (b) or provided financial assistance under this subtitle unless the fish habitat conservation project includes an evaluation plan designed—

(A) to appropriately assess the biological, ecological, or other results of the habitat protection, restoration, or enhancement activities carried out using the assistance;

(B) to reflect appropriate changes to the fish habitat conservation project if the assessment substantiates that the fish habitat conservation project objectives are not being met; and

(C) to require the submission to the Board of a report describing the findings of the assessment.

(2) ACQUISITION OF REAL PROPERTY INTERESTS.—

(A) IN GENERAL.—No fish habitat conservation project that will result in the acquisition by a State, local government, or other non-Federal entity, in whole or in part, of any real property interest may be recommended by the Board under subsection (b) or provided financial assistance under this subtitle unless the project meets the requirements of subparagraph (B).

(B) REQUIREMENTS.—

(i) IN GENERAL.—A real property interest may not be acquired pursuant to a fish habitat conservation project by a State, public agency, or other non-Federal entity unless the State, agency, or other non-Federal entity is obligated to undertake the management of the property being acquired in accordance with the purposes of this subtitle.

(ii) ADDITIONAL CONDITIONS.—Any real property interest acquired by a State, local government, or other non-Federal entity pursuant to a fish habitat conservation project shall be subject to terms and conditions that ensure that the interest will be administered for the long-term conservation and management of the aquatic ecosystem and the fish and wildlife dependent on that ecosystem.

(e) NON-FEDERAL CONTRIBUTIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), no fish habitat conservation project may be recommended by the Board under subsection (b) or provided financial assistance under this subtitle unless at least 50 percent of the cost of the fish habitat conservation project will be funded with non-Federal funds.

(2) PROJECTS ON FEDERAL LAND OR WATER.—Federal funds may be used for payment of 100 percent of the costs of a fish habitat conservation project carried out on Federal land or water, including the acquisition of inholdings within such land or water.

(3) NON-FEDERAL SHARE.—The non-Federal share of the cost of a fish habitat conservation project—

(A) may not be derived from a Federal grant program; but

(B) may include in-kind contributions and cash.

(4) SPECIAL RULE FOR INDIAN TRIBES.—Notwithstanding paragraph (1) or any other provision of law, any funds made available to an Indian tribe pursuant to this subtitle may be considered to be non-Federal funds for the purpose of paragraph (1).

(f) APPROVAL.—

(1) IN GENERAL.—Not later than 180 days after the date of receipt of the recommendations of the Board for fish habitat conservation projects under subsection (b), and based, to the maximum extent practicable, on the criteria described in subsection (c)—

(A) the Secretary shall approve, reject, or reorder the priority of any fish habitat conservation project recommended by the Board that is not within a marine or estuarine habitat; and

(B) the Secretary and the Secretary of Commerce shall jointly approve, reject, or reorder the priority of any fish habitat conservation project recommended by the Board that is within a marine or estuarine habitat.

(2) FUNDING.—If the Secretary, or the Secretary and the Secretary of Commerce jointly, approves a fish habitat conservation project under paragraph (1), the Secretary, or the Secretary and the Secretary of Commerce jointly, shall use amounts made available to carry out this subtitle to provide funds to carry out the fish habitat conservation project.

(3) NOTIFICATION.—If the Secretary, or the Secretary and the Secretary of Commerce jointly, rejects or reorders the priority of any fish habitat conservation project recommended by the Board under subsection (b), the Secretary, or the Secretary and the Secretary of Commerce jointly, shall provide to the Board and the appropriate Partnership a written statement of the reasons that the Secretary, or the Secretary and the Secretary of Commerce jointly, rejected or modified the priority of the fish habitat conservation project.

(4) LIMITATION.—If the Secretary, or the Secretary and the Secretary of Commerce jointly, has not approved, rejected, or reordered the priority of the recommendations of the Board for fish habitat conservation projects by the date that is 180 days after the date of receipt of the recommendations, the recommendations shall be considered to be approved.

SEC. 10007. NATIONAL FISH HABITAT CONSERVATION PARTNERSHIP OFFICE.

(a) ESTABLISHMENT.—Not later than 1 year after the date of enactment of this Act, the Director shall establish an office, to be known as the ''National Fish Habitat Conservation Partnership Office'', within the United States Fish and Wildlife Service.

(b) FUNCTIONS.—The National Fish Habitat Conservation Partnership Office shall—

(1) provide funding for the operational needs of the Partnerships, including funding for activities such as planning, project development and implementation, coordination, monitoring, evaluation, communication, and outreach;

(2) provide funding to support the detail of State and tribal fish and wildlife staff to the Office;

(3) facilitate the cooperative development and approval of Partnerships;

(4) assist the Secretary and the Board in carrying out this subtitle;

(5) assist the Secretary in carrying out sections 1008 and 1010;

(6) facilitate communication, cohesiveness, and efficient operations for the benefit of Partnerships and the Board;

(7) facilitate, with assistance from the Director, the Assistant Administrator, and the President of the Association of Fish and Wildlife Agencies, the consideration of fish habitat conservation projects by the Board;

(8) provide support to the Director regarding the development and implementation of the interagency operational plan under subsection (c);

(9) coordinate technical and scientific reporting as required by section 10011;

(10) facilitate the efficient use of resources and activities of Federal departments and agencies to carry out this subtitle in an efficient manner; and

(11) provide support to the Board for national communication and outreach efforts that promote public awareness of fish habitat conservation.

(c) INTERAGENCY OPERATIONAL PLAN.—Not later than 1 year after the date of enactment of this Act, and every 5 years thereafter, the Director, in cooperation with the Assistant Administrator and the heads of other appropriate Federal departments and agencies, shall develop an interagency operational plan for the National Fish Habitat Conservation Partnership Office that describes—

(1) the functional, operational, technical, scientific, and general staff, administrative, and material needs of the Office; and

(2) any interagency agreements between or among Federal departments and agencies to address those needs.

(d) STAFF AND SUPPORT.—

(1) DEPARTMENTS OF INTERIOR AND COMMERCE.—The Director and the Assistant Administrator shall each provide appropriate staff to support the National Fish Habitat Conservation Partnership Office, subject to the availability of funds under section 10015.

(2) STATES AND INDIAN TRIBES.—Each State and Indian tribe is encouraged to provide staff to support the National Fish Habitat Conservation Partnership Office.

(3) DETAILEES AND CONTRACTORS.—The National Fish Habitat Conservation Partnership Office may accept staff or other administrative support from other entities—

(A) through interagency details; or

(B) as contractors.

(4) QUALIFICATIONS.—The staff of the National Fish Habitat Conservation Partnership Office shall include members with education and experience relating to the principles of fish, wildlife, and aquatic habitat conservation.

(5) WAIVER OF REQUIREMENT.—The Secretary may waive all or part of the non-Federal contribution requirement under section 10006(e)(1) if the Secretary determines that—

(A) no reasonable means are available through which the affected applicant can meet the requirement; and

(B) the probable benefit of the relevant fish habitat conservation project outweighs the public interest in meeting the requirement.

(e) REPORTS.—Not less frequently than once each year, the Director shall provide to the Board a report describing the activities of the National Fish Habitat Conservation Partnership Office.

SEC. 10008. TECHNICAL AND SCIENTIFIC ASSISTANCE.

(a) IN GENERAL.—The Director, the Assistant Administrator, and the Director of the United States Geological Survey, in coordination with the Forest Service and other appropriate Federal departments and agencies, shall provide scientific and technical assistance to the Partnerships, participants in fish habitat conservation projects, and the Board.

(b) INCLUSIONS.—Scientific and technical assistance provided pursuant to subsection (a) may include—

(1) providing technical and scientific assistance to States, Indian tribes, regions, local communities, and nongovernmental organizations in the development and implementation of Partnerships;

(2) providing technical and scientific assistance to Partnerships for habitat assessment, strategic planning, and prioritization;

(3) supporting the development and implementation of fish habitat conservation projects that are identified as high priorities by Partnerships and the Board;

(4) supporting and providing recommendations regarding the development of science-based monitoring and assessment approaches for implementation through Partnerships;

(5) supporting and providing recommendations for a national fish habitat assessment; and

(6) ensuring the availability of experts to conduct scientifically based evaluation and reporting of the results of fish habitat conservation projects.

SEC. 10009. CONSERVATION OF AQUATIC HABITAT FOR FISH AND OTHER AQUATIC ORGANISMS ON FEDERAL LAND.

To the extent consistent with the mission and authority of the applicable department or agency, the head of each Federal department and agency responsible for acquiring, managing, or disposing of Federal land or water shall cooperate with the Assistant Administrator and the Director to conserve the aquatic habitats for fish and other aquatic organisms within the land and water under the jurisdiction of the department or agency.

SEC. 10010. COORDINATION WITH STATES AND INDIAN TRIBES.

The Secretary shall provide notice to, and coordinate with, the appropriate State agency or tribal agency, as applicable, of each State and Indian tribe within the boundaries of which an activity is planned to be carried out pursuant to this subtitle by not later than 30 days before the date on which the activity is implemented.

SEC. 10011. ACCOUNTABILITY AND REPORTING.

(a) IMPLEMENTATION REPORTS.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, and every 2 years thereafter, the Board shall submit to the appropriate congressional committees a report describing the implementation of—

(A) this subtitle; and

(B) the National Fish Habitat Action Plan.

(2) CONTENTS.—Each report submitted under paragraph (1) shall include—

(A) an estimate of the number of acres, stream miles, or acre-feet (or other suitable measure) of aquatic habitat that was protected, restored, or enhanced under the National Fish Habitat Action Plan by Federal, State, or local governments, Indian tribes, or other entities in the United States during the 2-year period ending on the date of submission of the report;

(B) a description of the public access to aquatic habitats protected, restored, or established under the National Fish Habitat Action Plan during that 2-year period;

(C) a description of the opportunities for public fishing established under the National Fish Habitat Action Plan during that period; and

(D) an assessment of the status of fish habitat conservation projects carried out with funds provided under this subtitle during that period, disaggregated by year, including—

(i) a description of the fish habitat conservation projects recommended by the Board under section 10006(b);

(ii) a description of each fish habitat conservation project approved by the Secretary under section 10006(f), in order of priority for funding;

(iii) a justification for—

(I) the approval of each fish habitat conservation project; and

(II) the order of priority for funding of each fish habitat conservation project;

(iv) a justification for any rejection or reordering of the priority of each fish habitat conservation project recommended by the Board under section 10006(b) that was based on a factor other than the criteria described in section 10006(c); and

(v) an accounting of expenditures by Federal, State, or local governments, Indian tribes, or other entities to carry out fish habitat conservation projects.

(b) STATUS AND TRENDS REPORT.—Not later than December 31, 2010, and every 5 years thereafter, the Board shall submit to the appropriate congressional committees a report describing the status of aquatic habitats in the United States.

(c) REVISIONS.—Not later than December 31, 2011, and every 5 years thereafter, the Board shall revise the goals and other elements of the National Fish Habitat Action Plan, after consideration of each report required by subsection (b).

SEC. 10012. REGULATIONS.

The Secretary may promulgate such regulations as the Secretary determines to be necessary to carry out this subtitle.

SEC. 10013. EFFECT OF SUBTITLE.

(a) WATER RIGHTS.—Nothing in this subtitle—

(1) establishes any express or implied reserved water right in the United States for any purpose;

(2) affects any water right in existence on the date of enactment of this Act; or

(3) affects any Federal or State law in existence on the date of enactment of the Act regarding water quality or water quantity.

(b) STATE AUTHORITY.—Nothing in this subtitle—

(1) affects the authority, jurisdiction, or responsibility of a State to manage, control, or regulate fish and wildlife under the laws and regulations of the State; or

(2) authorizes the Secretary to control or regulate within a State the fishing or hunting of fish and wildlife.

(c) EFFECT ON INDIAN TRIBES.—Nothing in this subtitle abrogates, abridges, affects, modifies, supersedes, or alters any right of an Indian tribe recognized by treaty or any other means, including—

(1) an agreement between the Indian tribe and the United States;

(2) Federal law (including regulations);

(3) an Executive order; or

(4) a judicial decree.

(d) ADJUDICATION OF WATER RIGHTS.—Nothing in this subtitle diminishes or affects the ability of the Secretary to join an adjudication of rights to the use of water pursuant to subsection (a), (b), or (c) of section 208 of the Department of Justice Appropriation Act, 1953 (43 U.S.C. 666).

(e) EFFECT ON OTHER AUTHORITIES.—

(1) ACQUISITION OF LAND AND WATER.—Nothing in this subtitle alters or otherwise affects the authorities, responsibilities, obligations, or powers of the Secretary to acquire land, water, or an interest in land or water under any other provision of law.

(2) PRIVATE PROPERTY PROTECTION.—Nothing in this subtitle permits the use of funds made available to carry out this subtitle to acquire real property or a real property interest without the written consent of each owner of the real property or real property interest.

(3) MITIGATION.—Nothing in this subtitle permits the use of funds made available to carry out this subtitle for fish and wildlife mitigation purposes under—

(A) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

(B) the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.);

(C) the Water Resources Development Act of 1986 (Public Law 99–662; 100 Stat. 4082); or

(D) any other Federal law or court settlement.

SEC. 10014. NONAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to—

(1) the Board; or

(2) any Partnership.

SEC. 10015. FUNDING.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) FISH HABITAT CONSERVATION PROJECTS.—There is authorized to be appropriated to the Secretary to provide funds for fish habitat conservation projects approved under section 10006(f) $75,000,000 for each of fiscal years 2012 through 2016, of which 5 percent shall be made available for each fiscal year for projects carried out by Indian tribes.

(2) NATIONAL FISH HABITAT CONSERVATION PARTNERSHIP OFFICE.—

(A) IN GENERAL.—There is authorized to be appropriated to the Secretary for each of fiscal years 2012 through 2016 for the National Fish Habitat Conservation Partnership Office, and to carry out section 10011, an amount equal to the greater of—

(i) $3,000,000; and

(ii) 25 percent of the amount appropriated for the applicable fiscal year pursuant to paragraph (1).

(B) REQUIRED TRANSFERS.—The Secretary shall annually transfer to other Federal departments and agencies such percentage of the amounts made available pursuant to subparagraph (A) as is required to support participation by those departments and agencies in the National Fish Habitat Conservation Partnership Office pursuant to the interagency operational plan under section 10007(c).

(3) TECHNICAL AND SCIENTIFIC ASSISTANCE.—There are authorized to be appropriated for each of fiscal years 2012 through 2016 to carry out, and provide technical and scientific assistance under, section 10008—

(A) $10,000,000 to the Secretary for use by the United States Fish and Wildlife Service;

(B) $10,000,000 to the Assistant Administrator for use by the National Oceanic and Atmospheric Administration; and

(C) $10,000,000 to the Secretary for use by the United States Geological Survey.

(4) PLANNING AND ADMINISTRATIVE EXPENSES.—There is authorized to be appropriated to the Secretary for each of fiscal years 2012 through 2016 for use by the Board, the Director, and the Assistant Administrator for planning and administrative expenses an amount equal to the greater of—

(A) $300,000; and

(B) 4 percent of the amount appropriated for the applicable fiscal year pursuant to paragraph (1).

(b) AGREEMENTS AND GRANTS.—The Secretary may—

(1) on the recommendation of the Board, and notwithstanding sections 6304 and 6305 of title 31, United States Code, and the Federal Financial Assistance Management Improvement Act of 1999 (31 U.S.C. 6101 note; Public Law 106–107), enter into a grant agreement, cooperative agreement, or contract with a Partnership or other entity for a fish habitat conservation project or restoration or enhancement project;

(2) apply for, accept, and use a grant from any individual or entity to carry out the purposes of this subtitle; and

(3) make funds available to any Federal department or agency for use by that department or agency to provide grants for any fish habitat protection project, restoration project, or enhancement project that the Secretary determines to be consistent with this subtitle.

(c) DONATIONS.—

(1) IN GENERAL.—The Secretary may—

(A) enter into an agreement with any organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of that Code to solicit private donations to carry out the purposes of this subtitle; and

(B) accept donations of funds, property, and services to carry out the purposes of this subtitle.

(2) TREATMENT.—A donation accepted under this section—

(A) shall be considered to be a gift or bequest to, or otherwise for the use of, the United States; and

(B) may be—

(i) used directly by the Secretary; or

(ii) provided to another Federal department or agency through an interagency agreement.

Subtitle B—Marine Turtle Conservation Reauthorization

SEC. 10011. SHORT TITLE.

This subtitle may be cited as the ''Marine Turtle Conservation Reauthorization Act of 2010''.

SEC. 10012. AMENDMENTS TO PROVISIONS PREVENTING FUNDING OF PROJECTS IN THE UNITED STATES.

(a) PURPOSE.—Section 2(b) of the Marine Turtle Conservation Act of 2004 (16 U.S.C. 6601(b)) is amended by striking ''in foreign countries''.

(b) DEFINITIONS.—Section 3 of the Marine Turtle Conservation Act of 2004 (16 U.S.C. 6602) is amended—

(1) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by striking ''in foreign countries''; and

(B) in subparagraph (D), by striking ''of foreign countries''; and

(2) by adding at the end the following:

''(7) STATE.—The term 'State' means—

''(A) each of the several States of the United States;

''(B) the District of Columbia;

''(C) the Commonwealth of Puerto Rico;

''(D) Guam;

''(E) American Samoa;

''(F) the Commonwealth of the Northern Mariana Islands;

''(G) the United States Virgin Islands;

''(H) any other territory or possession of the United States; and

''(I) any Indian tribe.''.

(c) MARINE TURTLE CONSERVATION ASSISTANCE.—Section 4 of the Marine Turtle Conservation Act of 2004 (16 U.S.C. 6603) is amended—

(1) in subsection (b)(1)(A), by inserting ''State or'' before ''foreign country''; and

(2) in subsection (d), by striking ''in foreign countries''.

SEC. 10013. LIMITATIONS ON EXPENDITURES.

Section 5(b) of the Marine Turtle Conservation Act of 2004 (16 U.S.C. 6604(b)) is amended—

(1) in paragraph (2), by striking ''$80,000'' and inserting ''$150,000''; and

(2) by adding at the end the following:

''(3) LIMITATION ON PROJECTS IN THE UNITED STATES.—Not more than 20 percent of the amounts made available from the Fund for any fiscal year may be used for projects relating to the conservation of marine turtles in the United States.''.

SEC. 10014. REAUTHORIZATION OF THE MARINE TURTLE CONSERVATION ACT OF 2004.

Section 7 of the Marine Turtle Conservation Act of 2004 (16 U. S. C. 6606) is amended by striking ''$5,000,000 for each of fiscal years 2005 through 2009'' and inserting ''$4,000,000 for each of fiscal years 2012 through 2016''.

Subtitle C—Neotropical Bird Conservation Reauthorization

SEC. 10021. REAUTHORIZATION OF NEOTROPICAL MIGRATORY BIRD CONSERVATION ACT.

Section 10 of the Neotropical Migratory Bird Conservation Act (16 U.S.C. 6109) is amended to read as follows:

''SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—There are authorized to be appropriated to carry out this Act, to remain available until expended—

''(1) $6,500,000 for fiscal year 2012;

''(2) $7,000,000 for fiscal year 2013;

''(3) $8,000,000 for fiscal year 2014;

''(4) $9,000,000 for fiscal year 2015; and

''(5) $10,000,000 for fiscal year 2016.

''(b) USE OF FUNDS.—Of the amounts made available under subsection (a) for each fiscal year, not less than 75 percent shall be expended for projects carried out at a location outside of the United States.''.

Subtitle D—Joint Ventures for Bird Habitat

SEC. 10031. SHORT TITLE.

This subtitle may be cited as the ''Joint Ventures for Bird Habitat Conservation Act of 2010''.

SEC. 10032. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) migratory birds are of great ecological and economic value to the Nation, contributing to biological diversity, advancing the well-being of human communities through pollination, seed dispersal, and other ecosystem services, and bringing tremendous enjoyment to the tens of millions of Americans who study, watch, feed, or hunt these birds;

(2) sustainable populations of migratory birds depend on the conservation, protection, restoration, and enhancement of terrestrial, wetland, marine, and other aquatic habitats throughout their ranges in the United States, as well as the rest of North America, the Caribbean, and Central and South America;

(3) birds are good indicators of environmental health and provide early warning of the impacts of environmental change, helping to yield the most out of every dollar invested in conservation;

(4) human and environmental stressors are causing the decline of populations of many migratory bird species, many of them once common, and climate change will exacerbate the impacts of these stressors on migratory bird populations;

(5) the coordination of Federal, State, tribal, and local government natural resource conservation efforts and the formation of partnerships that include a diversity of nongovernmental conservation organizations, private landowners, and other relevant stakeholders is necessary to accomplish the conservation of migratory bird populations, their habitats, and the ecosystem functions they rely on;

(6) hunters, through their purchase of Federal migratory bird hunting stamps and State hunting licenses, have long supported the conservation of migratory birds and their habitats in the United States through the various State and Federal programs that are supported by the fees charged for such purchases;

(7) the Department of the Interior, through the United States Fish and Wildlife Service, is authorized under a number of broad statutes to undertake many activities with partners to conserve natural resources, including migratory birds and their habitat;

(8) through these authorities, the Service has created and supported a number of joint ventures with diverse partners to help protect, manage, enhance, and restore migratory bird habitat throughout much of the United States and to conserve migratory bird species;

(9) the North American Waterfowl Management Plan, adopted by the United States and Canada in 1986, with Mexico joining as a signatory in 1994, was the first truly landscape-level approach to conserving migratory game birds and the wetland habitats on which they depend, and became the foundation for the voluntary formation of Joint Ventures;

(10) since the adoption of the North American Waterfowl Management Plan, joint ventures have expanded their application to all native birds and other wildlife species that depend on wetlands and associated upland habitats, resulting in significant conservation benefits over the last 20 years;

(11) States possess broad trustee and management authority over fish and wildlife resources within their borders, and have used their authorities to undertake conservation programs to conserve resident and migratory birds and their habitats;

(12) consistent with applicable Federal and State laws, the Federal Government and the States each have management responsibilities affecting fish and wildlife resources, and should work cooperatively in fulfilling these responsibilities;

(13) other domestic and international conservation projects authorized under the Neotropical Migratory Bird Conservation Act (16 U.S.C. 6101 et seq.) and the North American Wetlands Conservation Act (16 U.S.C. 4401 et seq.), and additional bird conservation projects authorized under other Federal authorities, can expand and increase the effectiveness of the joint ventures in protecting and enhancing migratory bird habitats throughout the different ranges of species native to the United States; and

(14) the voluntary partnerships fostered by these joint ventures have served as innovative models for cooperative and effective landscape conservation, with far-reaching benefits to other fish and wildlife populations, and similar joint ventures should be authorized specifically to reinforce the importance and multiple benefits of these models to encourage adaptive resource management and the implementation of flexible conservation strategies in the 21st century.

(b) PURPOSE.—The purpose of this subtitle is to establish a program administered by the Director, in coordination with other Federal agencies with management authority over fish and wildlife resources and the States, to develop, implement, and support innovative, voluntary, cooperative, and effective conservation strategies and conservation actions to—

(1) promote, primarily, sustainable populations of migratory birds, and, secondarily, the fish and wildlife species associated with their habitats;

(2) encourage stakeholder and government partnerships consistent with the goals of protecting, improving, and restoring habitat;

(3) establish, implement, and improve science-based migratory bird conservation plans and promote and facilitate broader landscape-level conservation of fish and wildlife habitat; and

(4) coordinate related conservation activities of the Service and other Federal agencies to maximize the efficient and effective use of funds appropriated or otherwise made available to support projects and activities to enhance bird populations and other populations of fish and wildlife and their habitats.

SEC. 10033. DEFINITIONS.

In this subtitle:

(1)

(1) Conservation action.—The term ''conservation action'' means activities that—

(A) support the protection, restoration, adaptive management, conservation, or enhancement of migratory bird populations, their terrestrial, wetland, marine, or other habitats, and other wildlife species supported by those habitats, including—

(i) biological and geospatial planning;

(ii) landscape and conservation design;

(iii) habitat protection, enhancement, and restoration;

(iv) monitoring and tracking;

(v) applied research; and

(vi) public outreach and education;

(B) are conducted on lands or waters that—

(i) are administered for the long-term conservation of such lands or waters and the migratory birds thereon, including the marine environment; or

(ii) are not primarily held or managed for conservation but provide habitat value for migratory birds; and

(C) incorporate adaptive management and science-based monitoring, where applicable, to improve outcomes and ensure efficient and effective use of Federal funds.

(2) DIRECTOR.—The term ''Director'' means the Director of the United States Fish and Wildlife Service.

(3) IMPLEMENTATION PLAN.—The term ''Implementation Plan'' means an Implementation Plan approved by the Director under section 10035.

(4) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given that term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(5) JOINT VENTURE.—The term ''Joint Venture'' means a self-directed, voluntary partnership, established and conducted in accordance with section 10035.

(6) MANAGEMENT BOARD.—The term ''Management Board'' means a Joint Venture Management Board established in accordance with section 10035.

(7) MIGRATORY BIRDS.—The term ''migratory birds'' means those species included in the list of migratory birds that appears in section 10.13 of title 50, Code of Federal Regulations, under the authority of the Migratory Bird Treaty Act.

(8) PROGRAM.—The term ''Program'' means the Joint Ventures Program conducted in accordance with this subtitle.

(9) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(10) SERVICE.—The term ''Service'' means the United States Fish and Wildlife Service.

(11) STATE.—The term ''State'' means—

(A) any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands; and

(B) one or more agencies of a State government responsible under State law for managing fish or wildlife resources.

SEC. 10034. JOINT VENTURES PROGRAM.

(a) IN GENERAL.—The Secretary shall conduct, through the United States Fish and Wildlife Service, a Joint Ventures Program administered by the Director. The Director, through the Program, shall develop an administrative framework for the approval and establishment and implementation of Joint Ventures, that—

(1) provides financial and technical assistance to support regional migratory bird conservation partnerships;

(2) develops and implements plans to protect and enhance migratory bird populations throughout their range, that are focused on regional landscapes and habitats that support those populations;

(3) complements and supports activities by the Secretary and the Director to fulfill obligations under—

(A) the Migratory Bird Treaty Act (16 U.S.C. 701 et seq.);

(B) the Migratory Bird Conservation Act (16 U.S.C. 715 et seq.);

(C) the Neotropical Migratory Bird Conservation Act (16 U.S.C. 6101 et seq.);

(D) the North American Wetlands Conservation Act (16 U.S.C. 4401 et seq.);

(E) the Fish and Wildlife Conservation Act of 1980 (16 U.S.C. 2901 et seq.); and

(F) the Partners for Fish and Wildlife Act (16 U.S.C. 3771 et seq.); and

(4) support the goals and objectives of—

(A) the North American Waterfowl Management Plan;

(B) the United States Shorebird Conservation Plan;

(C) the North American Waterbird Conservation Plan;

(D) the Partners in Flight North American Landbird Conservation Plan; and

(E) other treaties, conventions, agreements, or strategies entered into by the United States and implemented by the Secretary that promote the conservation of migratory bird populations and their habitats.

(b) GUIDELINES.—Within 180 days after the date of enactment of this Act the Secretary, through the Director, shall publish in the Federal Register guidelines for the implementation of this subtitle, including regarding requirements for approval of proposed Joint Ventures and administration, oversight, coordination among, and evaluation of approved Joint Ventures.

(c) COORDINATION WITH STATES.—In the administration of the program authorized under this section, the Director shall coordinate and cooperate with the States to fulfill the purposes of this subtitle.

SEC. 10035. JOINT VENTURE ESTABLISHMENT AND ADMINISTRATION.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Director, through the Program, may enter into an agreement with eligible partners described in paragraph (2) to establish a Joint Venture to fulfill one or more of the purposes set forth in paragraphs (1) through (3) of section 10032(b).

(2) ELIGIBLE PARTNERS.—The eligible partners referred to in paragraph (1) are the following:

(A) Federal and State agencies with jurisdiction over migratory bird resources, their habitats, or that implement program activities that affect migratory bird habitats or the ecosystems they rely on.

(B) Affected regional, local, and tribal governments, private landowners, land managers, and other private stakeholders.

(C) Nongovernmental organizations with expertise in bird conservation or fish and wildlife conservation or natural resource and landscape management generally.

(D) Other relevant stakeholders.

(b) MANAGEMENT BOARD.—

(1) IN GENERAL.—An agreement under this section for a Joint Venture shall establish a Management Board in accordance with this subsection.

(2) MEMBERSHIP.—The Management Board shall include a diversity of members representing stakeholder interests from the appropriate geographic region, including, as appropriate, representatives from the Service and other Federal agencies that have management authority over fish and wildlife resources on public lands or in the marine environment, or that implement programs that affect migratory bird habitats, and representatives from the States, and may include—

(A) regional governments and Indian tribes;

(B) academia or the scientific community;

(C) nongovernmental landowners or land managers;

(D) nonprofit conservation or other relevant organizations with expertise in migratory bird conservation, or in fish and wildlife conservation generally; and

(E) private organizations with a dedicated interest in conserving migratory birds and their habitats.

(3) FUNCTIONS AND RESPONSIBILITIES.—

(A) ORGANIZATION AND OPERATIONS PLAN.—A Management Board, in accordance with the guidelines published by the Director under section 10034 and in coordination with the Director, shall develop, publish, and comply with a plan that specifies the organizational structure of the Joint Venture and prescribes its operational practices and procedures.

(B) ADMINISTRATION.—Subject to applicable Federal and State law, the Management Board shall manage the personnel and operations of the Joint Venture, including—

(i) by appointing a coordinator for the Joint Venture in consultation with the Director, to manage the daily and long-term operations of the Joint Venture;

(ii) approval of other full- or part-time administrative and technical non-Federal employees as the Management Board determines necessary to perform the functions of the Joint Venture, meet objectives specified in the Implementation Plan, and fulfill the purpose of this subtitle; and

(iii) establishment of committees, steering groups, focus groups, geographic or taxonomic groups, or other organizational entities to assist in implementing the relevant Implementation Plan.

(4) USE OF SERVICE AND FEDERAL AGENCY EMPLOYEES.—Subject to the availability of appropriations and upon the request from a Management Board, and after consultation with and approval of the Director, the head of any Federal agency may detail to the Management Board, on a reimbursable or nonreimbursable basis, any agency personnel to assist the Joint Venture in performing its functions under this subtitle.

(c) IMPLEMENTATION PLAN.—

(1) SUBMISSION OF PLAN TO DIRECTOR.—Before the Director enters into an agreement to establish a Joint Venture under subsection (a), the Management Board for the Joint Venture shall submit to the Director a proposed Implementation Plan that shall contain, at a minimum, the following elements:

(A) A strategic framework for migratory bird conservation that includes biological planning; conservation design; habitat restoration, protection, and enhancement; applied research; and monitoring and evaluation activities.

(B) Provisions for effective communication among member participants within the Joint Venture.

(C) A long-term strategy to conduct public outreach and education regarding the purposes and activities of the Joint Venture and activities to regularly communicate to the general public information generated by the Joint Venture.

(D) Coordination with laws and conservation plans referred to in section 10034(a)(3) and (4) that are relevant to migratory birds, and other relevant regional, national, or international initiatives identified by the Director to conserve migratory birds, their habitats, ecological functions, and associated populations of fish and wildlife.

(E) An organizational plan that—

(i) identifies the initial membership of the Management Board and establishes procedures for updating the membership of the Management Board as appropriate;

(ii) describes the organizational structure of the Joint Venture, including proposed committees and subcommittees, and procedures for revising and updating the structure, as necessary; and

(iii) provides a strategy to increase stakeholder participation or membership in the Joint Venture.

(F) Procedures to coordinate the development, implementation, oversight, monitoring, tracking, and reporting of conservation actions approved by the Management Board and an evaluation process to determine overall effectiveness of activities undertaken by the Joint Venture.

(G) A strategy to encourage the contribution of non-Federal financial resources, donations, gifts and in-kind contributions to support the objectives of the Joint Venture and fulfillment of the Implementation Plan.

(2) REVIEW.—The Director shall—

(A) coordinate the review of a proposed Implementation Plan submitted under this section; and

(B) ensure that such plan is circulated for review for a period not to exceed 90 days, to—

(i) bureaus within the Service and other appropriate bureaus or agencies within the Department of the Interior;

(ii) appropriate regional migratory bird Flyway Councils;

(iii) national and international boards that oversee bird conservation initiatives under the plans specified in section 10034(a)(4);

(iv) relevant State agencies, regional governmental entities, and Indian tribes;

(v) nongovernmental conservation organizations, academic institutions, or other stakeholders engaged in existing Joint Ventures that have knowledge or expertise of the geographic or ecological scope of the Joint Venture; and

(vi) other relevant stakeholders considered necessary by the Director to ensure a comprehensive review of the proposed Implementation Plan.

(3) APPROVAL.—The Director shall approve an Implementation Plan submitted by the Management Board for a Joint Venture if the Director finds that—

(A) the plan provides for implementation of conservation actions to conserve waterfowl and other native migratory birds and their habitats and ecosystems either—

(i) in a specific geographic area of the United States; or

(ii) across the range of a specific species or similar group of like species;

(B) the members of the Joint Venture—

(i) accept the responsibility for implementation of national or international bird conservation plans in the region of the United States to which the plan applies; and

(ii) have demonstrated to the satisfaction of the Director the capacity to implement conservation actions identified in the plan, including (I) the design, funding, monitoring, and tracking of conservation projects that advance the objectives of the Joint Venture; and (II) reporting and conduct of public outreach regarding such projects; and

(C) the plan maximizes, to the extent practicable, coordination with other relevant and active conservation plans or programs within the geographic scope of the Joint Venture to conserve, protect, recover, or restore migratory bird habitats and other fish and wildlife habitat within the operating region of the Joint Venture.

SEC. 10036. GRANTS AND OTHER ASSISTANCE.

(a) IN GENERAL.—Except as provided in subsection (b), and subject to the availability of appropriations, the Director may award grants of financial assistance to implement a Joint Venture through—

(1) support of the activities of the Management Board of the Joint Venture and to pay for necessary administrative costs and services, personnel, and meetings, travel, and other business activities; and

(2) support for specific conservation actions and other activities necessary to carry out the Implementation Plan.

(b) LIMITATION.—A Joint Venture is not eligible for assistance or support authorized in this section unless the Joint Venture is operating under an Implementation Plan approved by the Director under section 10035.

(c) CONSERVATION ACTION GRANT CRITERIA.—The Secretary, through the Director, within 180 days after date of enactment of this Act and after consultation with representatives from Management Boards and equivalent entities of joint ventures referred to in section 10038, shall publish guidelines for determining funding allocations among joint ventures and priorities for funding among conservation action proposals to meet the purpose of this subtitle and respective Implementation Plans.

(d) MATCHING REQUIREMENTS.—If a Management Board determines that two or more proposed conservation actions are of equal value toward fulfillment of the relevant Implementation Plan, priority shall be given to the action or actions for which there exist non-Federal matching contributions that are equal to or exceed the amount of Federal funds available for such action or actions.

(e) TECHNICAL ASSISTANCE.—The Secretary, through the Director, may provide technical and administrative assistance for implementation of Joint Ventures and the expenditure of financial assistance under this subsection.

(f) ACCEPTANCE AND USE OF DONATIONS.—The Secretary, through the Director, may accept and use donations of funds, gifts, and in-kind contributions to provide assistance under this section.

SEC. 10037. REPORTING REQUIREMENTS.

(a) ANNUAL REPORTS BY MANAGEMENT BOARDS.—

(1) IN GENERAL.—The Secretary, acting through the Director, shall—

(A) require each Management Board to submit annual reports for all approved Joint Ventures of the Management Board; and

(B) publish within 180 days after the date of enactment of this Act guidelines to implement this subsection.

(2) CONTENTS.—Each annual report shall include—

(A) a description and justification of all conservation actions approved and implemented by the Management Board during the period covered by the report;

(B) when appropriate based upon the goals and objectives of an Implementation Plan, an estimate of the total number of acres of migratory bird habitat either restored, protected, or enhanced as a result of such conservation actions;

(C) the amounts and sources of Federal and non-Federal funding for such conservation actions;

(D) the amounts and sources of funds expended for administrative and other expenses of the Joint Venture of the Management Board, including all donations, gifts, and in-kind contributions provided for the Joint Venture;

(E) the status of progress made in achieving the strategic framework of the Implementation Plan of such Joint Venture and fulfillment of the purpose of this subtitle; and

(F) other elements considered necessary by the Director to insure transparency and accountability by Management Boards in the implementation of its responsibilities under this subtitle.

(b) JOINT VENTURE PROGRAM 5-YEAR REVIEWS.—

(1) IN GENERAL.—The Secretary, acting through the Director, shall at 5 years after the date of enactment of this Act and at 5-year intervals thereafter, complete an objective and comprehensive review and evaluation of the Program.

(2) REVIEW CONTENTS.—Each review under this subsection shall include—

(A) an evaluation of the effectiveness of the Program in meeting the purpose of this subtitle specified in section 10032(b);

(B) an evaluation of all approved Implementation Plans, especially the effectiveness of existing conservation strategies, priorities, and methods to meet the objectives of such plans and fulfill the purpose of this subtitle; and

(C) recommendations to revise the Program or to amend or otherwise revise Implementation Plans to ensure that activities undertaken pursuant to this subtitle address the effects of climate change on migratory bird populations and their habitats, and fish and wildlife habitats, in general.

(3) CONSULTATION.—The Secretary, acting through the Director, in the implementation of this subsection—

(A) shall consult with other appropriate Federal agencies with responsibility for the conservation or management of fish and wildlife habitat and appropriate State agencies; and

(B) may consult with appropriate, Indian tribes, Flyway Councils, or regional conservation organizations, public and private landowners, members of academia and the scientific community, and other nonprofit conservation or private stakeholders.

(4) PUBLIC COMMENT.—The Secretary, through the Director, shall provide for adequate opportunities for general public review and comment of the Program as part of the 5-year evaluations conducted pursuant to this subsection.

SEC. 10038. TREATMENT OF EXISTING JOINT VENTURES.

For purposes of this subtitle, the Director—

(1) shall treat as a Joint Venture any joint venture recognized by the Director before the date of the enactment of this Act in accordance with the United States Fish and Wildlife Services manual (721FW6); and

(2) shall treat as an Implementation Plan an implementation plan adopted by the management board for such joint venture.

SEC. 10039. RELATIONSHIP TO OTHER AUTHORITIES.

(a) AUTHORITIES, ETC. OF SECRETARY.—Nothing in this subtitle affects authorities, responsibilities, obligations, or powers of the Secretary under any other Act.

(b) STATE AUTHORITY.—Nothing in this Act preempts any provision or enforcement of a State statute or regulation relating to the management of fish and wildlife resources within such State.

SEC. 10040. FEDERAL ADVISORY COMMITTEE ACT.

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to any boards, committees, or other groups established under this subtitle.

Subtitle E—Crane Conservation

SEC. 10041. SHORT TITLE.

This subtitle may be cited as the ''Crane Conservation Act of 2010''.

SEC. 10042. PURPOSES.

The purposes of this subtitle are—

(1) to perpetuate healthy populations of cranes;

(2) to assist in the conservation and protection of cranes by supporting—

(A) conservation programs in countries in which endangered and threatened cranes occur; and

(B) the efforts of private organizations committed to helping cranes; and

(3) to provide financial resources for those programs and efforts.

SEC. 10043. DEFINITIONS.

In this subtitle:

(1) CONSERVATION.—

(A) IN GENERAL.—The term ''conservation'' means the use of any method or procedure to improve the viability of crane populations and the quality of the ecosystems and habitats on which the crane populations depend to help the species achieve sufficient populations in the wild to ensure the long-term viability of the species.

(B) INCLUSIONS.—The term ''conservation'' includes the carrying out of any activity associated with scientific resource management, such as—

(i) protection, restoration, and management of habitat;

(ii) research and monitoring of known populations;

(iii) the provision of assistance in the development of management plans for managed crane ranges;

(iv) enforcement of the Convention;

(v) law enforcement and habitat protection through community participation;

(vi) reintroduction of cranes to the wild;

(vii) conflict resolution initiatives; and

(viii) community outreach and education.

(2) CONVENTION.—The term ''Convention'' has the meaning given the term in section 3 of the Endangered Species Act of 1973 (16 U.S.C. 1532).

(3) FUND.—The term ''Fund'' means the Crane Conservation Fund established by section 10045(a).

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

SEC. 10044. CRANE CONSERVATION ASSISTANCE.

(a) IN GENERAL.—Subject to the availability of appropriations and in consultation with other appropriate Federal officials, the Secretary shall use amounts in the Fund to provide financial assistance for projects relating to the conservation of cranes for which project proposals are approved by the Secretary in accordance with this section.

(b) PROJECT PROPOSALS.—

(1) APPLICANTS.—

(A) IN GENERAL.—An applicant described in subparagraph (B) that seeks to receive assistance under this section to carry out a project relating to the conservation of cranes shall submit to the Secretary a project proposal that meets the requirements of this section.

(B) ELIGIBLE APPLICANTS.—An applicant described in this subparagraph is—

(i) any relevant wildlife management authority of a country that—

(I) is located within the African, Asian, European, or North American range of a species of crane; and

(II) carries out one or more activities that directly or indirectly affect crane populations;

(ii) the Secretariat of the Convention; and

(iii) any person or organization with demonstrated expertise in the conservation of cranes.

(2) REQUIRED ELEMENTS.—A project proposal submitted under paragraph (1)(A) shall include—

(A) a concise statement of the purpose of the project;

(B)(i) the name of each individual responsible for conducting the project; and

(ii) a description of the qualifications of each of those individuals;

(C) a concise description of—

(i) methods to be used to implement and assess the outcome of the project;

(ii) staff and community management for the project; and

(iii) the logistics of the project;

(D) an estimate of the funds and the period of time required to complete the project;

(E) evidence of support for the project by appropriate government entities of countries in which the project will be conducted, if the Secretary determines that such support is required to ensure the success of the project;

(F) information regarding the source and amount of matching funding available for the project; and

(G) any other information that the Secretary considers to be necessary for evaluating the eligibility of the project to receive assistance under this subtitle.

(c) PROJECT REVIEW AND APPROVAL.—

(1) IN GENERAL.—The Secretary shall—

(A) not later than 30 days after receiving a final project proposal, provide a copy of the proposal to other appropriate Federal officials; and

(B) review each project proposal in a timely manner to determine whether the proposal meets the criteria described in subsection (d).

(2) CONSULTATION; APPROVAL OR DISAPPROVAL.—Not later than 180 days after receiving a project proposal, and subject to the availability of appropriations, the Secretary, after consulting with other appropriate Federal officials, shall—

(A) consult on the proposal with the government of each country in which the project is to be carried out;

(B) after taking into consideration any comments resulting from the consultation, approve or disapprove the proposal; and

(C) provide written notification of the approval or disapproval to—

(i) the applicant that submitted the proposal;

(ii) other appropriate Federal officials; and

(iii) each country described in subparagraph (A).

(d) CRITERIA FOR APPROVAL.—The Secretary may approve a project proposal under this section if the Secretary determines that the proposed project will enhance programs for conservation of cranes by assisting efforts to—

(1) implement conservation programs;

(2) address the conflicts between humans and cranes that arise from competition for the same habitat or resources;

(3) enhance compliance with the Convention and other applicable laws that—

(A) prohibit or regulate the taking or trade of cranes; or

(B) regulate the use and management of crane habitat;

(4) develop sound scientific information on, or methods for monitoring—

(A) the condition of crane habitat;

(B) crane population numbers and trends; or

(C) the current and projected threats to crane habitat and population numbers and trends;

(5) promote cooperative projects on the issues described in paragraph (4) among—

(A) governmental entities;

(B) affected local communities;

(C) nongovernmental organizations; or

(D) other persons in the private sector;

(6) carry out necessary scientific research on cranes;

(7) provide relevant training to, or support technical exchanges involving, staff responsible for managing cranes or habitats of cranes, to enhance capacity for effective conservation; or

(8) reintroduce cranes successfully back into the wild, including propagation of a sufficient number of cranes required for this purpose.

(e) PROJECT SUSTAINABILITY; MATCHING FUNDS.—To the maximum extent practicable, in determining whether to approve a project proposal under this section, the Secretary shall give preference to a proposed project—

(1) that is designed to ensure effective, long-term conservation of cranes and habitats of cranes; or

(2) for which matching funds are available.

(f) PROJECT REPORTING.—

(1) IN GENERAL.—Each person that receives assistance under this section for a project shall submit to the Secretary, at such periodic intervals as are determined by the Secretary, reports that include all information that the Secretary, after consulting with other appropriate government officials, determines to be necessary to evaluate the progress and success of the project for the purposes of—

(A) ensuring positive results;

(B) assessing problems; and

(C) fostering improvements.

(2) AVAILABILITY TO THE PUBLIC.—Each report submitted under paragraph (1), and any other documents relating to a project for which financial assistance is provided under this subtitle, shall be made available to the public.

SEC. 10045. CRANE CONSERVATION FUND.

(a) ESTABLISHMENT.—There is established in the Multinational Species Conservation Fund established by the matter under the heading ''MULTINATIONAL SPECIES CONSERVATION FUND'' in title I of the Department of the Interior and Related Agencies Appropriations Act, 1999 (112 Stat. 2681–237; 16 U.S.C. 4246) a separate account to be known as the ''Crane Conservation Fund'', consisting of—

(1) amounts transferred to the Secretary of the Treasury for deposit into the Fund under subsection (c); and

(2) amounts appropriated to the Fund under section 10047.

(b) EXPENDITURES FROM FUND.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), upon request by the Secretary, the Secretary of the Treasury shall transfer from the Fund to the Secretary, without further appropriation, such amounts as the Secretary determines are necessary to provide assistance under section 10044.

(2) ADMINISTRATIVE EXPENSES.—Of the amounts in the Fund available for each fiscal year, the Secretary may expend not more than 3 percent, or $150,000, whichever is greater, to pay the administrative expenses necessary to carry out this subtitle.

(3) LIMITATION.—Not more than 20 percent of the amounts made available from the Fund for any fiscal year may be used for projects relating to the conservation of North American crane species.

(c) ACCEPTANCE AND USE OF DONATIONS.—

(1) IN GENERAL.—The Secretary may accept and use donations to provide assistance under section 10044.

(2) TRANSFER OF DONATIONS.—Amounts received by the Secretary in the form of donations shall be transferred to the Secretary of the Treasury for deposit in the Fund.

SEC. 10046. ADVISORY GROUP.

(a) IN GENERAL.—To assist in carrying out this subtitle, the Secretary may convene an advisory group consisting of individuals representing public and private organizations actively involved in the conservation of cranes.

(b) PUBLIC PARTICIPATION.—

(1) MEETINGS.—The advisory group shall—

(A) ensure that each meeting of the advisory group is open to the public; and

(B) provide, at each meeting, an opportunity for interested persons to present oral or written statements concerning items on the agenda.

(2) NOTICE.—The Secretary shall provide to the public timely notice of each meeting of the advisory group.

(3) MINUTES.—Minutes of each meeting of the advisory group shall be kept by the Secretary and shall be made available to the public.

(c) EXEMPTION FROM FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the advisory group.

SEC. 10047. FUNDING.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Fund $3,000,000 for each of fiscal years 2012 through 2016, to remain available until expended.

(b) OFFSET.—Of amounts appropriated to, and available at the discretion of, the Secretary for programmatic and administrative expenditures, a total of $25,000,000 shall be used to establish the Fund.

Subtitle F—Great Cats and Rare Canids Conservation

SEC. 10051. SHORT TITLE.

This subtitle may be cited as the ''Great Cats and Rare Canids Act of 2010''.

SEC. 10052. PURPOSES.

The purposes of this subtitle are to provide financial resources and to foster international cooperation—

(1) to restore and perpetuate healthy populations of rare felids and rare canids in the wild; and

(2) to assist in the conservation of rare felid and rare canid populations worldwide.

SEC. 10053. DEFINITIONS.

In this subtitle:

(1) CITES.—The term ''CITES'' means the Convention on International Trade in Endangered Species of Wild Fauna and Flora, done at Washington March 3, 1973 (27 UST 1087; TIAS 8249), including appendices to that convention.

(2) CONSERVATION.—

(A) IN GENERAL.—The term ''conservation'' means the methods and procedures necessary to bring a species of rare felid or rare canid to the point at which there are sufficient populations in the wild to ensure the long-term viability of the species.

(B) INCLUSIONS.—The term ''conservation'' includes all activities associated with protection and management of a rare felid or rare canid population, including—

(i) maintenance, management, protection, and restoration of rare felid or rare canid habitat;

(ii) research and monitoring;

(iii) law enforcement;

(iv) community outreach and education;

(v) conflict resolution initiatives; and

(vi) strengthening the capacity of local communities, governmental agencies, nongovernmental organizations, and other institutions to implement conservation programs.

(3) FUND.—The term ''Fund'' means the Great Cats and Rare Canids Conservation Fund established by section 10054(a).

(4) IUCN RED LIST.—The term ''IUCN Red List'' means the Red List of Threatened Species Maintained by the World Conservation Union.

(5) RARE CANID.—

(A) IN GENERAL.—The term ''rare canid'' means any of the canid species dhole (Cuon alpinus), gray wolf (Canis lupus), Ethiopian wolf (Canis simensis), bush dog (Speothos venaticus), African wild dog (Lycaon pictus), maned wolf (Chrysocyon brachyurus), and Darwin's fox (Pseudalopex fulvipes) (including any subspecies or population of such a species).

(B) EXCLUSIONS.—The term ''rare canid'' does not include any subspecies or population that is native to the area comprised of the United States and Canada or the European Union.

(6) RARE FELID.—

(A) IN GENERAL.—The term ''rare felid'' means any of the felid species lion (Panthera leo), leopard (Panthera pardus), jaguar (Panthera onca), snow leopard (Uncia uncia), clouded leopard (Neofelis nebulosa), cheetah (Acinonyx jubatus), Iberian lynx (Lynx pardina), and Borneo bay cat (Catopuma badia) (including any subspecies or population of such a species).

(B) EXCLUSIONS.—The term ''rare felid'' does not include—

(i) any species, subspecies, or population that is native to the United States; or

(ii) any tiger (Panthera tigris).

(7) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

SEC. 10054. GREAT CATS AND RARE CANIDS CONSERVATION FUND.

(a) ESTABLISHMENT.—There is established in the multinational species conservation fund established under the heading ''MULTINATIONAL SPECIES CONSERVATION FUND'' of title I of the Department of the Interior and Related Agencies Appropriations Act, 1999 (16 U.S.C. 4246), a separate account to be known as the ''Great Cats and Rare Canids Conservation Fund'', consisting of—

(1) amounts transferred to the Secretary of the Treasury for deposit in the account under subsection (c); and

(2) amounts appropriated to the account under section 10057.

(b) EXPENDITURES FROM FUND.—

(1) IN GENERAL.—Subject to paragraph (2), on request by the Secretary, the Secretary of the Treasury shall transfer from the Fund to the Secretary, without further appropriation, such amounts as the Secretary determines to be necessary to provide assistance under section 10055.

(2) ADMINISTRATIVE EXPENSES.—Of the amounts in the Fund available for each fiscal year, the Secretary may use to pay the administrative expenses of carrying out this subtitle not more than the greater of—

(A) 3 percent; and

(B) $100,000.

(c) ACCEPTANCE AND USE OF DONATIONS.—

(1) IN GENERAL.—The Secretary may—

(A) accept and use donations to provide assistance under section 10055; and

(B) publish on the Internet website and in publications of the Department of the Interior a notice that the Secretary is authorized to accept and use such donations.

(2) USE.—Amounts received by the Secretary in the form of donations shall be transferred to the Secretary of the Treasury for deposit in the Fund.

SEC. 10055. FINANCIAL ASSISTANCE.

(a) IN GENERAL.—Subject to the availability of funds and in consultation with other appropriate Federal officials, the Secretary shall use amounts in the Fund to provide financial assistance for projects for the conservation of rare felid and rare canids for which project proposals are approved by the Secretary in accordance with this section.

(b) PROJECT PROPOSALS.—

(1) ELIGIBLE APPLICANTS.—A proposal for a project for the conservation of rare felid and canids may be submitted to the Secretary by—

(A) any wildlife management authority of a country that has within its boundaries any part of the range of a rare felid or rare canid species, respectively; and

(B) any person or group with the demonstrated expertise required for conservation in the wild of rare felids or rare canids, respectively.

(2) PROJECT PROPOSALS.—To be eligible for financial assistance for a project under this subtitle, an applicant shall submit to the Secretary a project proposal that includes—

(A) a concise statement of the purposes of the project;

(B) the name of the individual responsible for conducting the project;

(C) a description of the qualifications of the individuals who will conduct the project;

(D) a concise description of—

(i) methods for project implementation and outcome assessment;

(ii) staffing for the project;

(iii) the logistics of the project; and

(iv) community involvement in the project;

(E) an estimate of funds and time required to complete the project;

(F) evidence of support for the project by appropriate governmental entities of the countries in which the project will be conducted, if the Secretary determines that such support is required for the success of the project;

(G) information regarding the source and amount of matching funding available for the project; and

(H) any other information that the Secretary considers to be necessary for evaluating the eligibility of the project for funding under this subtitle.

(c) PROJECT REVIEW AND APPROVAL.—

(1) IN GENERAL.—The Secretary shall—

(A) not later than 30 days after receiving a project proposal, provide a copy of the proposal to the appropriate Federal officials; and

(B) review each project proposal in a timely manner to determine whether the proposal meets the criteria specified in subsection (d).

(2) CONSULTATION; APPROVAL OR DISAPPROVAL.—Not later than 180 days after receiving a project proposal, and subject to the availability of funds, the Secretary, after consulting with other appropriate Federal officials, shall—

(A) ensure the proposal contains assurances that the project will be implemented in consultation with relevant wildlife management authorities and other appropriate government officials with jurisdiction over the resources addressed by the project;

(B) approve or disapprove the proposal; and

(C) provide written notification of the approval or disapproval to—

(i) the individual or entity that submitted the proposal;

(ii) other appropriate Federal officials; and

(iii) each country within the borders of which the project will take place.

(d) CRITERIA FOR APPROVAL.—The Secretary may approve a project proposal under this section if the project will contribute to conservation of rare felids or rare canids in the wild by assisting efforts—

(1) to implement conservation programs;

(2) to address the conflicts between humans and rare felids or rare canids, respectively, that arise from competition for the same habitat or resources;

(3) to enhance compliance with CITES, the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and other applicable laws that—

(A) prohibit or regulate the taking or trade of rare felids and rare canids; or

(B) regulate the use and management of rare felid and rare canid habitat;

(4) to develop sound scientific information on, or methods for monitoring—

(A) the condition and health of rare felid or rare canid habitat;

(B) rare felid or rare canid population numbers and trends; and

(C) the ecological characteristics and requirements of populations of rare felids or rare canids for which there are little or no data;

(5) to promote cooperative projects among government entities, affected local communities, nongovernmental organizations, and other persons in the private sector; or

(6) to ensure that funds will not be appropriated for the purchase or lease of land to be used as suitable habitat for felids or canids.

(e) PROJECT SUSTAINABILITY.—In approving project proposals under this section, the Secretary shall give preference to conservation projects that are designed to ensure effective, long-term conservation of rare felids and rare canids and their habitats.

(f) MATCHING FUNDS.—In determining whether to approve project proposals under this section, the Secretary shall give preference to projects any portion of the costs of which will be provided with matching funds.

(g) PROJECT REPORTING.—

(1) IN GENERAL.—Each individual or entity that receives assistance under this section for a project shall submit to the Secretary periodic reports (at such intervals as the Secretary considers necessary) that include all information that the Secretary, after consultation with other appropriate government officials, determines to be necessary to evaluate the progress and success of the project for the purposes of ensuring positive results, assessing problems, and fostering improvements.

(2) AVAILABILITY TO PUBLIC.—Reports under paragraph (1), and any other documents relating to projects for which financial assistance is provided under this subtitle, shall be made available to the public.

(h) LIMITATIONS.—

(1) USE FOR CAPTIVE BREEDING OR DISPLAY.—Amounts provided as a grant under this subtitle—

(A) may not be used for captive breeding or display of rare felids and rare canids, other than captive breeding for release into the wild; and

(B) may be used for captive breeding of a species for release into the wild only if no other conservation method for the species is biologically feasible.

(2) INELIGIBLE COUNTRIES.—Amounts provided as a grant under this subtitle may not be expended on any project in a country the government of which has repeatedly provided support for acts of international terrorism, as determined by the Secretary of State pursuant to—

(A) section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)(A)) (or any successor to that Act);

(B) section 40(d) of the Arms Export Control Act (22 U.S.C. 2780(d)); or

(C) section 620A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2371(a)).

(i) ADVISORY GROUP.—

(1) IN GENERAL.—To assist in carrying out this subtitle, the Secretary may establish an advisory group, consisting of individuals representing public and private organizations actively involved in the conservation of felids and canids.

(2) PUBLIC PARTICIPATION.—

(A) MEETINGS.—The advisory group shall—

(i) ensure that each meeting of the advisory group is open to the public; and

(ii) provide, at each meeting, an opportunity for interested individuals to present oral or written statements concerning items on the agenda.

(B) NOTICE.—The Secretary shall provide to the public timely notice of each meeting of the advisory group, including the meeting agenda.

(C) MINUTES.—The minutes of each meeting of the advisory group shall be—

(i) kept by the Secretary; and

(ii) made available to the public.

(3) NONAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the advisory group.

SEC. 10056. STUDY OF CONSERVATION STATUS OF FELID AND CANID SPECIES.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall initiate a study of felid and canid species listed under the IUCN Red List that are not rare canids or rare felids, respectively, to determine—

(1) the conservation status of each such species in the wild, including identification of any such species that are critically endangered or endangered; and

(2) whether any such species that should be made eligible for assistance under this subtitle.

(b) REPORT.—Not later than 2 years after date of enactment of this Act, the Secretary shall submit to Congress a report describing the determinations made in the study, including recommendations of additional felid species and canid species that should be made eligible for assistance under this subtitle.

SEC. 10057. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated—

(1) to the Fund, $3,000,000 for each of fiscal years 2012 through 2016 to carry out this subtitle, other than section 10056; and

(2) such sums as are necessary to carry out section 10056.

Subtitle G—Junior Duck Stamp Conservation and Design Program

SEC. 10061. SHORT TITLE.

This subtitle may be cited as the ''Junior Duck Stamp Conservation and Design Program Reauthorization Act of 2010''.

SEC. 10062. FINDINGS.

Congress finds the following:

(1) In 2007–2008, sales of the $5 Junior Duck Stamp generated more than $100,000 in revenue, all of which was used to provide educational materials for the program, fund scholarships for students, and support and promote the program's goal of connecting children with nature.

(2) Now in its 20th year, the Junior Duck Stamp Conservation and Design Program is one of this country's oldest and most successful government-sponsored, youth-focused conservation biology programs. The program continues to build strong partnerships with public and parochial schools, homeschoolers

and after-school programs, and other youth-focused education programs throughout the country.

(3) The Junior Duck Stamp Conservation and Design Program continues to foster strong partnerships among Federal and State government agencies, nongovernmental organizations, the business community, and others in the private sector to promote youth conservation initiatives.

(4) With its conservation-focused science and arts curriculum, the Junior Duck Stamp Conservation and Design Program has helped prepare hundreds of thousands of students to become stewards of America's irreplaceable wild places and treasured outdoor heritage.

SEC. 10063. REPORTING REQUIREMENT.

Section 2(c)(2) of the Junior Duck Stamp Conservation and Design Program Act of 1994 (16 U.S.C. 719(c)(2)) is amended to read as follows:

''(2) REPORTING REQUIREMENT.—Beginning in 2011 and every 5 years thereafter, the Secretary shall submit to Congress a report on the status of the Program in each State.''.

SEC. 10064. AUTHORIZATION OF APPROPRIATIONS.

Section 6 of the Junior Duck Stamp Conservation and Design Program Act of 1994 (16 U.S.C. 719c) is amended to read as follows:

''SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

''There is authorized to be appropriated to the Secretary for administrative expenses of the Program $500,000 for each of fiscal years 2012 through 2016.''.

Subtitle H—Additional Conservation Funding

SEC. 10071. GREAT APE CONSERVATION ACT OF 2000.

(a) MULTIYEAR GRANTS.—Section 4 of the Great Ape Conservation Act of 2000 (16 U.S.C. 6303) is amended—

(1) in subsection (i)—

(A) by striking paragraph (1) and inserting the following:

''(1) ESTABLISHMENT.—

''(A) IN GENERAL.—Not later than 1 year after the date of enactment of the America's Great Outdoors Act of 2010, and every 5 years thereafter, the Secretary shall convene a panel of experts to identify the greatest needs and priorities for the conservation of great apes.

''(B) INCLUSIONS.—The panel shall include, to the maximum extent practicable, representatives from foreign range states with expertise in great ape conservation.''.

(B) by redesignating paragraph (2) as paragraph (4); and

(C) by inserting after paragraph (1) the following:

''(2) FACTORS FOR CONSIDERATION.—In identifying conservation needs and priorities under paragraph (1), the panel shall consider relevant great ape conservation plans or strategies, including scientific research and findings relating to—

''(A) the conservation needs and priorities of great apes;

''(B) regional or species-specific action plans or strategies;

''(C) applicable strategies developed or initiated by the Secretary; and

''(D) any other applicable conservation plan or strategy.

''(3) EXPENSES.—The Secretary, subject to the availability of appropriations, may pay expenses of convening and facilitating meetings of the panel.''; and

(2) by adding at the end the following:

''(j) MULTIYEAR GRANTS.—

''(1) IN GENERAL.—The Secretary may award a multiyear grant under this section to an individual or entity that is otherwise eligible for a grant under this section, to carry out a project that the individual or entity demonstrates is an effective, long-term conservation strategy for great apes and the habitats of great apes.

''(2) ANNUAL GRANTS NOT AFFECTED.—Nothing in this subsection precludes the Secretary from awarding grants on an annual basis.

''(k) EXCELLENCE IN GREAT APE CONSERVATION AWARDS.—

''(1) IN GENERAL.—The Secretary, subject to the availability of appropriations, may implement a program to acknowledge outstanding achievement in great ape conservation—

''(A) to enhance great ape conservation; and

''(B) to demonstrate the indebtedness of the entire world to the commitment made by individuals and local communities to protect and conserve populations of great apes.

''(2) AWARDS.—In carrying out the program under this subsection, the Secretary may use amounts appropriated under this subsection to make appropriate awards, including—

''(A) cash awards, each of which shall not exceed $7,500;

''(B) noncash awards;

''(C) posthumous awards; and

''(D) public ceremonies to acknowledge such awards.

''(3) SELECTION OF AWARD RECIPIENTS.—The Secretary may select each year for receipt of an award under the program—

''(A) not more than 3 individuals whose contributions to the field of great ape conservation have had a significant and material impact on the conservation of great apes; and

''(B) individuals selected from within great ape range states, whose contributions represent selfless sacrifice and uncommon valor and dedication to the conservation of great apes and the habitats of great apes.

''(4) NOMINATION GUIDELINES.—

''(A) IN GENERAL.—Not later than 180 days after the date of enactment of this subsection, and after consultation with the heads of other relevant Federal agencies and other governmental and nongovernmental organizations with expertise in great ape conservation, the Secretary shall publish in the Federal Register guidelines specifying the details and process for nominating award candidates.

''(B) REQUIREMENT.—The guidelines under subparagraph (A) shall allow for nominations of citizens and noncitizens of the United States.''.

(b) ADMINISTRATIVE EXPENSES LIMITATION.—Section 5(b)(2) of the Great Ape Conservation Act of 2000 (16 U.S.C. 6304 (b)(2)) is amended by striking ''$100,000'' and inserting ''$150,000''.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 6 of the Great Ape Conservation Act of 2000 (16 U.S.C. 6305) is amended by striking ''$5,000,000 for each of fiscal years 2006 through 2010'' and inserting ''$4,000,000 for each of fiscal years 2012 through 2016''.

SEC. 10072. AFRICAN ELEPHANT CONSERVATION ACT.

Section 2306(a) of the African Elephant Conservation Act (16 U.S.C. 4245(a)) is amended by striking ''$5,000,000 for each of fiscal years 2007 through 2012'' and inserting ''$4,000,000 for each of fiscal years 2012 through 2016''.

SEC. 10073. ASIAN ELEPHANT CONSERVATION ACT OF 1997.

Section 8(a) of the Asian Elephant Conservation Act of 1997 (16 U.S.C. 4266(a)) is amended by striking ''$5,000,000 for each of fiscal years 2007 through 2012'' and inserting ''$4,000,000 for each of fiscal years 2012 through 2016''.

SEC. 10074. RHINOCEROS AND TIGER CONSERVATION ACT OF 1994.

Section 10(a) of the Rhinoceros and Tiger Conservation Act of 1994 (16 U.S.C. 5306(a)) is amended by striking ''$10,000,000 for each of fiscal years 2007 through 2012'' and inserting ''$8,000,000 for each of fiscal years 2012 through 2016''.

TITLE CI—INVASIVE SPECIES CONTROL

SEC. 10101. SHORT TITLE.

This title may be cited as the ''Nutria Eradication and Control Act Amendments of 2010''.

SEC. 10102. FINDINGS; PURPOSE.

Section 2 of the Nutria Eradication and Control Act of 2003 (Public Law 108–16; 117 Stat. 621) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking ''and in Louisiana'' and inserting '', the State of Louisiana, and the coastal States'';

(B) in paragraph (2), by striking ''in Maryland and Louisiana on Federal, State, and private land'' and inserting ''on Federal, State, and private land in the States of Maryland and Louisiana and the coastal States''; and

(C) by striking paragraphs (3) and (4) and inserting the following:

''(3) This Act authorized the Maryland Nutria Project, which has successfully eradicated nutria from more than 130,000 acres of Chesapeake Bay wetland in the State of Maryland and successfully facilitated the creation of voluntary, public-private partnerships and more than 406 cooperative landowner agreements.

''(4) This Act and the Coastal Wetlands Planning, Protection, and Restoration Act (16 U.S.C. 3951 et seq.) authorized the Coastwide Nutria Control Program, which has reduced nutria-impacted wetland acres in the State of Louisiana from 80,000 acres to 23,141 acres.

''(5) Proven techniques developed under this Act that are eradicating nutria from the State of Maryland and are reducing the acres of nutria-impacted wetland in Louisiana, should be applied to nutria eradication or control programs in the coastal States.''; and

(2) by striking subsection (b) and inserting the following:

''(b) PURPOSE.—The purpose of this Act is to authorize the Secretary of the Interior to provide financial assistance to the States of Delaware, Louisiana, Maryland, North Carolina, Oregon, Virginia, and Washington to carry out activities—

''(1) to eradicate or control nutria; and

''(2) to restore nutria-damaged wetland.''.

SEC. 10103. DEFINITIONS.

The Nutria Eradication and Control Act of 2003 (Public Law 108–16; 117 Stat. 621) is amended—

(1) by redesignating sections 3 and 4 as sections 4 and 5, respectively; and

(2) by inserting after section 2 the following:

''SEC. 3. DEFINITIONS.

''In this Act:

''(1) COASTAL STATE.—The term 'coastal State' means each of the States of Delaware, North Carolina, Oregon, Virginia, and Washington.

''(2) PROGRAM.—The term 'program' means the nutria eradication program established under section 4(a).

''(3) PUBLIC-PRIVATE PARTNERSHIP.—The term 'public-private partnership' means a voluntary, cooperative project undertaken by governmental entities or public officials and affected communities, local citizens, nongovernmental organizations, or other entities or individuals in the private sector.

''(4) SECRETARY.—The term 'Secretary' means the Secretary of the Interior.''.

SEC. 10104. NUTRIA ERADICATION PROGRAM.

Section 4 of the Nutria Eradication and Control Act of 2003 (Public Law 108–16; 117 Stat. 621, 622) (as redesignated by section 10103) is amended—

(1) by striking subsection (a) and inserting the following:

''(a) IN GENERAL.—Subject to the availability of appropriations, the Secretary may provide financial assistance to the States of Maryland and Louisiana and the coastal States to implement measures—

''(1) to eradicate or control nutria; and

''(2) to restore wetland damaged by nutria.'';

(2) in subsection (b)—

(A) in paragraph (2), by striking ''other States'' and inserting ''the coastal States''; and

(B) in paragraph (3), by striking ''marshland'' and inserting ''wetland'';

(3) in subsection (c)—

(A) in the subsection heading, by striking ''(c) ACTIVITIES.—'' and inserting ''ACTIVITIES IN THE STATE OF MARYLAND.—''; and

(B) by striking ''March 2002'' and inserting ''March 2002, and updated March 2009'';

(4) in subsection (e), by striking ''this section'' and inserting ''the program''; and

(5) by striking subsection (f) and inserting the following:

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for each of fiscal years 2012 through 2016—

''(1) $4,000,000 for use in providing financial assistance under the program to each of the States of Maryland and Louisiana; and

''(2) $5,000,000 for use in providing financial assistance under the program to the other coastal States.''.

SEC. 10105. REPORT.

Section 5 of the Nutria Eradication and Control Act of 2003 (Public Law 108–16; 117 Stat. 622) (as redesignated by section 10103) is amended—

(1) in paragraph (1)—

(A) by striking ''2002 document'' and inserting ''March 2009 update of the document'';

(B) by inserting ''and dated March 2002'' before the semicolon at the end; and

(C) by striking ''and'' at the end;

(2) in paragraph (2)—

(A) by striking ''develop'' and inserting ''continue''; and

(B) by striking the period at the end and inserting ''; and''; and

(3) by inserting after paragraph (2) the following:

''(3) develop, in cooperation with the appropriate State fish and wildlife agency, long-term nutria control or eradication programs, as appropriate, with the objectives of—

''(A) significantly reducing and restoring the damage nutria cause to coastal wetland in the coastal States; and

''(B) promoting voluntary, public-private partnerships to eradicate or control nutria and restore nutria-damaged wetland in the coastal States.''.

TITLE CII—WATER RESOURCE RESTORATION AND PROTECTION

Subtitle A—Gulf of Mexico Restoration and Protection

SEC. 10201. SHORT TITLE.

This subtitle may be cited as the ''Gulf of Mexico Restoration and Protection Act''.

SEC. 10202. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the Gulf of Mexico is a valuable resource of national and international importance, continuously serving the people of the United States and other countries as an important source of food, economic productivity, recreation, beauty, and enjoyment;

(2) over many years, the resource productivity and water quality of the Gulf of Mexico and the watershed of the Gulf have been diminished by point and nonpoint source pollution;

(3) the United States should seek to attain the protection and restoration of the Gulf of Mexico ecosystem as a collaborative regional goal of the Gulf of Mexico Program; and

(4) the Administrator of the Environmental Protection Agency, in consultation with other Federal agencies and State and local authorities, should coordinate the effort to meet those goals.

(b) PURPOSES.—The purposes of this subtitle are—

(1) to expand and strengthen cooperative voluntary efforts to restore and protect the Gulf of Mexico;

(2) to expand Federal support for monitoring, management, and restoration activities in the Gulf of Mexico and the watershed of the Gulf;

(3) to commit the United States to a comprehensive cooperative program to achieve improved water quality in, and improvements in the productivity of living resources of, the Gulf of Mexico; and

(4) to establish a Gulf of Mexico Program to serve as a national and international model for the collaborative management of large marine ecosystems.

SEC. 10203. GULF OF MEXICO RESTORATION AND PROTECTION.

Title I of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) is amended by adding at the end the following:

''SEC. 123. GULF OF MEXICO RESTORATION AND PROTECTION.

''(a) DEFINITIONS.—In this section;

''(1) GULF OF MEXICO ECOSYSTEM.—The term 'Gulf of Mexico ecosystem' means the ecosystem of the Gulf of Mexico and the watershed of the Gulf.

''(2) GULF OF MEXICO EXECUTIVE COUNCIL.—The term 'Gulf of Mexico Executive Council' means the formal collaborative Executive Council composed of Federal, State, local, and private participants in the Program.

''(3) NEEDS-BASED APPLICANT.—The term 'needs-based applicant' means a public entity that meets the economic and affordability criteria established by the Administrator, in consultation with the Program and Gulf of Mexico Executive Council.

''(4) PROGRAM.—The term 'Program' means the Gulf of Mexico Program established by the Administrator in 1988 as a nonregulatory, inclusive partnership to provide a broad geographic focus on the primary environmental issues affecting the Gulf of Mexico.

''(5) PROGRAM OFFICE.—The term 'Program Office' means the office established by the Administrator to administer the Program that is reestablished by subsection (b)(1)(A).

''(b) CONTINUATION OF GULF OF MEXICO PROGRAM.—

''(1) GULF OF MEXICO PROGRAM OFFICE.—

''(A) REESTABLISHMENT.—The Program Office established before the date of enactment of this section by the Administrator is reestablished as an office of the Environmental Protection Agency.

''(B) REQUIREMENTS.—The Program Office shall be—

''(i) headed by a Director who, by reason of management experience and technical expertise relating to the Gulf of Mexico, is highly qualified to direct the development of plans and programs on a variety of Gulf of Mexico issues, as determined by the Administrator; and

''(ii) located in a State all or a portion of the coastline of which is on the Gulf of Mexico.

''(C) FUNCTIONS.—The Program Office shall—

''(i) coordinate the actions of the Environmental Protection Agency with the actions of the appropriate officials of other Federal agencies and State and local authorities in developing strategies—

''(I) to improve the water quality and living resources in the Gulf of Mexico ecosystem; and

''(II) to obtain the support of appropriate officials;

''(ii) in cooperation with appropriate Federal, State, and local authorities, assist in developing and implementing specific action plans to carry out the Program;

''(iii) coordinate and implement priority State-led and community-led restoration plans and projects, and facilitate science, research, modeling, monitoring, data collection, and other activities that support the Program through the provision of grants under subsection (d);

''(iv) implement outreach programs for public information, education, and participation to foster stewardship of the resources of the Gulf of Mexico ecosystem;

''(v) develop and make available, through publications, technical assistance, and other appropriate means, information pertaining to the environmental quality and living resources of the Gulf of Mexico ecosystem;

''(vi) serve as the liaison with, and provide information to, the Mexican members of the Gulf of Mexico States Accord and Mexican counterparts of the Environmental Protection Agency; and

''(vii) focus the efforts and resources of the Program Office on activities that will result in measurable improvements to water quality and living resources of the Gulf of Mexico ecosystem.

''(c) INTERAGENCY AGREEMENTS.—The Administrator may enter into 1 or more interagency agreements with other Federal agencies to carry out this section.

''(d) GRANTS.—

''(1) IN GENERAL.—In carrying out the Program, the Administrator, acting through the Program Office, may provide grants to nonprofit organizations, State and local governments, institutions of higher education, interstate agencies, and individuals to carry out this section for use in—

''(A) monitoring the water quality and living resources of the Gulf of Mexico ecosystem;

''(B) researching the effects of natural and human-induced environmental changes on the water quality and living resources of the Gulf of Mexico ecosystem;

''(C) developing and executing cooperative strategies that address the water quality and living resource needs in the Gulf of Mexico ecosystem;

''(D) developing and implementing locally based protection and restoration programs or projects within a watershed that complement those strategies, including the creation, restoration, protection, or enhancement of habitat associated with the Gulf of Mexico ecosystem; and

''(E) eliminating or reducing nonpoint sources that discharge pollutants that contaminate the Gulf of Mexico ecosystem, including activities to eliminate leaking septic systems and construct connections to local sewage systems.

''(2) FEDERAL SHARE.—

''(A) IN GENERAL.—Except as provided in subparagraph (C), the Federal share of the cost of any project or activity carried out using a grant provided under this section shall not exceed 75 percent, as determined by the Administrator.

''(B) IN-KIND CONTRIBUTIONS.—The non-Federal share of the cost of a project or activity carried out under this section may include the value of any in-kind services contributed by a non-Federal sponsor.

''(C) EXCEPTION.—For each fiscal year, the Administrator may use up to 10 percent of the funds made available to carry out this subsection for the fiscal year to increase the

Federal share of the cost of a project or activity carried out by a needs-based applicant under this section up to 100 percent.

''(e) REPORTS.—

''(1) ANNUAL REPORT.—Not later than December 30, 2011, and annually thereafter, the Director of the Program Office shall submit to the Administrator and make available to the public a report that describes—

''(A) each project and activity funded under this section during the previous fiscal year;

''(B) the goals and objectives of those projects and activities; and

''(C) the net benefits of projects and activities funded under this section during previous fiscal years.

''(2) ASSESSMENT.—

''(A) IN GENERAL.—Not later than April 30, 2011, and every 5 years thereafter, the Administrator, in coordination with the Gulf of Mexico Executive Council, shall complete an assessment, and submit to Congress a comprehensive report on the performance, of the Program.

''(B) REQUIREMENTS.—The assessment and report described in subparagraph (A) shall—

''(i) assess the overall state of the Gulf of Mexico ecosystem;

''(ii) compare the current state of the Gulf of Mexico ecosystem with a baseline assessment;

''(iii) include specific measures to assess any improvements in water quality and living resources of the Gulf of Mexico ecosystem;

''(iv) assess the effectiveness of the Program management strategies being implemented, and the extent to which the priority needs of the region are being met through that implementation; and

''(v) make recommendations for the improved management of the Program, including strengthening strategies being implemented or adopting improved strategies.

''(f) BUDGET ITEM.—The Administrator, in the annual submission to Congress of the budget of the Environmental Protection Agency, shall include a funding line item request for the Program Office as a separate budget line item.

''(g) LIMITATION ON REGULATORY AUTHORITY.—Nothing in this section establishes any new legal or regulatory authority of the Administrator other than the authority to provide grants in accordance with this section.

''(h) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There are authorized to be appropriated to carry out subsection (d), to remain available until expended—

''(A) $6,000,000 for fiscal year 2012;

''(B) $8,000,000 for each of fiscal years 2013 and 2014; and

''(C) $10,000,000 for each of fiscal years 2015 and 2016.

''(2) PROGRAM OFFICE.—There is authorized to be appropriated to the Program Office for use in paying operating costs (including costs relating to personnel, operations, and administration) not more than $3,000,000 for each of fiscal years 2012 through 2016.''.

Subtitle B—Lake Tahoe Restoration

SEC. 10211. SHORT TITLE.

This subtitle may be cited as the ''Lake Tahoe Restoration Act of 2010''.

SEC. 10212. FINDINGS AND PURPOSES.

The Lake Tahoe Restoration Act (Public Law 106–506; 114 Stat. 2351) is amended by striking section 2 and inserting the following:

''SEC. 2. FINDINGS AND PURPOSES.

''(a) FINDINGS.—Congress finds that—

''(1) Lake Tahoe—

''(A) is 1 of the largest, deepest, and clearest lakes in the world;

''(B) has a cobalt blue color, a biologically diverse alpine setting, and remarkable water clarity; and

''(C) is recognized nationally and worldwide as a natural resource of special significance;

''(2) in addition to being a scenic and ecological treasure, the Lake Tahoe Basin is 1 of the outstanding recreational resources of the United States, which—

''(A) offers skiing, water sports, biking, camping, and hiking to millions of visitors each year; and

''(B) contributes significantly to the economies of California, Nevada, and the United States;

''(3) the economy in the Lake Tahoe Basin is dependent on the protection and restoration of the natural beauty and recreation opportunities in the area;

''(4) the Lake Tahoe Basin continues to be threatened by the impacts of land use and transportation patterns developed in the last century that damage the fragile watershed of the Basin;

''(5) the water clarity of Lake Tahoe declined from a visibility level of 105 feet in 1967 to only 70 feet in 2008;

''(6) the rate of decline in water clarity of Lake Tahoe has decreased in recent years;

''(7) a stable water clarity level for Lake Tahoe could be achieved through feasible control measures for very fine sediment particles and nutrients;

''(8) fine sediments that cloud Lake Tahoe, and key nutrients such as phosphorus and nitrogen that support the growth of algae and invasive plants, continue to flow into the lake from stormwater runoff from developed areas, roads, turf, other disturbed land, and streams;

''(9) the destruction and alteration of wetland, wet meadows, and stream zone habitat have compromised the natural capacity of the watershed to filter sediment, nutrients, and pollutants before reaching Lake Tahoe;

''(10) approximately 25 percent of the trees in the Lake Tahoe Basin are either dead or dying;

''(11) forests in the Tahoe Basin suffer from over a century of fire suppression and periodic drought, which have resulted in—

''(A) high tree density and mortality;

''(B) the loss of biological diversity; and

''(C) a large quantity of combustible forest fuels, which significantly increases the threat of catastrophic fire and insect infestation;

''(12) the establishment of several aquatic and terrestrial invasive species (including bass, milfoil, and Asian clam) threatens the ecosystem of the Lake Tahoe Basin;

''(13) there is an ongoing threat to the Lake Tahoe Basin of the introduction and establishment of other invasive species (such as the zebra mussel, New Zealand mud snail, and quagga mussel);

''(14) the report prepared by the University of California, Davis, entitled the 'State of the Lake Report', found that conditions in the Lake Tahoe Basin had changed, including—

''(A) the average surface water temperature of Lake Tahoe has risen by more than 1.5 degrees Fahrenheit in the past 37 years; and

''(B) since 1910, the percent of precipitation that has fallen as snow in the Lake Tahoe Basin decreased from 52 percent to 34 percent;

''(15) 75 percent of the land in the Lake Tahoe Basin is owned by the Federal Government, which makes it a Federal responsibility to restore environmental health to the Basin;

''(16) the Federal Government has a long history of environmental preservation at Lake Tahoe, including—

''(A) congressional consent to the establishment of the Tahoe Regional Planning Agency with—

''(i) the enactment in 1969 of Public Law 91–148 (83 Stat. 360); and

''(ii) the enactment in 1980 of Public Law 96–551 (94 Stat. 3233);

''(B) the establishment of the Lake Tahoe Basin Management Unit in 1973;

''(C) the enactment of Public Law 96–586 (94 Stat. 3381) in 1980 to provide for the acquisition of environmentally sensitive land and erosion control grants in the Lake Tahoe Basin;

''(D) the enactment of sections 341 and 342 of the Department of the Interior and Related Agencies Appropriations Act, 2004 (Public Law 108–108; 117 Stat. 1317), which amended the Southern Nevada Public Land Management Act of 1998 (Public Law 105–263; 112 Stat. 2346) to provide payments for the environmental restoration projects under this Act; and

''(E) the enactment of section 382 of the Tax Relief and Health Care Act of 2006 (Public Law 109–432; 120 Stat. 3045), which amended the Southern Nevada Public Land Management Act of 1998 (Public Law 105–263; 112 Stat. 2346) to authorize development and implementation of a comprehensive 10-year hazardous fuels and fire prevention plan for the Lake Tahoe Basin;

''(17) the Assistant Secretary of the Army for Civil Works was an original signatory in 1997 to the Agreement of Federal Departments on Protection of the Environment and Economic Health of the Lake Tahoe Basin;

''(18) the Chief of Engineers, under direction from the Assistant Secretary of the Army for Civil Works, has continued to be a significant contributor to Lake Tahoe Basin restoration, including—

''(A) stream and wetland restoration;

''(B) urban stormwater conveyance and treatment; and

''(C) programmatic technical assistance;

''(19) at the Lake Tahoe Presidential Forum in 1997, the President renewed the commitment of the Federal Government to Lake Tahoe by—

''(A) committing to increased Federal resources for environmental restoration at Lake Tahoe; and

''(B) establishing the Federal Interagency Partnership and Federal Advisory Committee to consult on natural resources issues concerning the Lake Tahoe Basin;

''(20) at the 2008 and 2009 Lake Tahoe Forums, Senator Reid, Senator Feinstein, Senator Ensign, and Governor Gibbons—

''(A) renewed their commitment to Lake Tahoe; and

''(B) expressed their desire to fund the Federal share of the Environmental Improvement Program through 2018;

''(21) since 1997, the Federal Government, the States of California and Nevada, units of local government, and the private sector have contributed more than $1,430,000,000 to the Lake Tahoe Basin, including—

''(A) $424,000,000 from the Federal Government;

''(B) $612,000,000 from the State of California;

''(C) $87,000,000 from the State of Nevada;

''(D) $59,000,000 from units of local government; and

''(E) $249,000,000 from private interests;

''(22) significant additional investment from Federal, State, local, and private sources is necessary—

''(A) to restore and sustain the environmental health of the Lake Tahoe Basin;

''(B) to adapt to the impacts of changing climatic conditions; and

''(C) to protect the Lake Tahoe Basin from the introduction and establishment of invasive species; and

''(23) the Secretary has indicated that the Lake Tahoe Basin Management Unit has the capacity for at least $10,000,000 and up to

$20,000,000 annually for the Fire Risk Reduction and Forest Management Program.

''(b) PURPOSES.—The purposes of this Act are—

''(1) to enable the Chief of the Forest Service, the Director of the United States Fish and Wildlife Service, and the Administrator of the Environmental Protection Agency, in cooperation with the Planning Agency and the States of California and Nevada, to fund, plan, and implement significant new environmental restoration activities and forest management activities to address in the Lake Tahoe Basin the issues described in paragraphs (4) through (14) of subsection (a);

''(2) to ensure that Federal, State, local, regional, tribal, and private entities continue to work together to manage land in the Lake Tahoe Basin and to coordinate on other activities in a manner that supports achievement and maintenance of—

''(A) the environmental threshold carrying capacities for the region; and

''(B) other applicable environmental standards and objectives;

''(3) to support local governments in efforts related to environmental restoration, stormwater pollution control, fire risk reduction, and forest management activities; and

''(4) to ensure that agency and science community representatives in the Lake Tahoe Basin work together—

''(A) to develop and implement a plan for integrated monitoring, assessment, and applied research to evaluate the effectiveness of the Environmental Improvement Program; and

''(B) to provide objective information as a basis for ongoing decisionmaking, with an emphasis on decisionmaking relating to public and private land use and resource management in the Basin.''.

SEC. 10213. DEFINITIONS.

The Lake Tahoe Restoration Act (Public Law 106–506; 114 Stat. 2351) is amended by striking section 3 and inserting the following:

''SEC. 3. DEFINITIONS.

''In this Act:

''(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Environmental Protection Agency.

''(2) ASSISTANT SECRETARY.—The term 'Assistant Secretary' means the Assistant Secretary of the Army for Civil Works.

''(3) CHAIR.—The term 'Chair' means the Chair of the Federal Partnership.

''(4) COMPACT.—The term 'Compact' means the Tahoe Regional Planning Compact included in the first section of Public Law 96–551 (94 Stat. 3233).

''(5) DIRECTOR.—The term 'Director' means the Director of the United States Fish and Wildlife Service.

''(6) ENVIRONMENTAL IMPROVEMENT PROGRAM.—The term 'Environmental Improvement Program' means—

''(A) the Environmental Improvement Program adopted by the Planning Agency; and

''(B) any amendments to the Program.

''(7) ENVIRONMENTAL THRESHOLD CARRYING CAPACITY.—The term 'environmental threshold carrying capacity' has the meaning given the term in article II of the compact.

''(8) FEDERAL PARTNERSHIP.—The term 'Federal Partnership' means the Lake Tahoe Federal Interagency Partnership established by Executive Order 13957 (62 Fed. Reg. 41249) (or a successor Executive order).

''(9) FOREST MANAGEMENT ACTIVITY.—The term 'forest management activity' includes—

''(A) prescribed burning for ecosystem health and hazardous fuels reduction;

''(B) mechanical and minimum tool treatment;

''(C) road decommissioning or reconstruction;

''(D) stream environment zone restoration and other watershed and wildlife habitat enhancements;

''(E) nonnative invasive species management; and

''(F) other activities consistent with Forest Service practices, as the Secretary determines to be appropriate.

''(10) NATIONAL WILDLAND FIRE CODE.—The term 'national wildland fire code' means—

''(A) the most recent publication of the National Fire Protection Association code numbered 1141, 1142, or 1144;

''(B) the most recent publication of the International Wildland-Urban Interface Code of the International Code Council; or

''(C) any other code that the Secretary determines provides the same, or better, standards for protection against wildland fire as a code described in subparagraph (A) or (B).

''(11) PLANNING AGENCY.—The term 'Planning Agency' means the Tahoe Regional Planning Agency established under Public Law 91–148 (83 Stat. 360) and Public Law 96–551 (94 Stat. 3233).

''(12) PRIORITY LIST.—The term 'Priority List' means the environmental restoration priority list developed under section 8.

''(13) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture, acting through the Chief of the Forest Service.

''(14) TOTAL MAXIMUM DAILY LOAD.—The term 'total maximum daily load' means the total maximum daily load allocations adopted under section 303(d) of the Federal Water Pollution Control Act (33 U.S.C. 1313(d)).

''(15) STREAM ENVIRONMENT ZONE.—The term 'Stream Environment Zone' means an area that generally owes the biological and physical characteristics of the area to the presence of surface water or groundwater.

''(16) WATERCRAFT.—The term 'watercraft' means all motorized and non-motorized watercraft, including boats, personal watercraft, kayaks, and canoes.''.

SEC. 10214. ADMINISTRATION OF THE LAKE TAHOE BASIN MANAGEMENT UNIT.

Section 4 of the Lake Tahoe Restoration Act (Public Law 106–506; 114 Stat. 2353) is amended—

(1) in subsection (b)(3), by striking ''basin'' and inserting ''Basin''; and

(2) by adding at the end the following:

''(c) TRANSIT.—

''(1) IN GENERAL.—The Lake Tahoe Basin Management Unit shall, consistent with the regional transportation plan adopted by the Planning Agency, manage vehicular parking and traffic in the Lake Tahoe Basin Management Unit, with priority given—

''(A) to improving public access to the Lake Tahoe Basin, including the prioritization of alternatives to the private automobile, consistent with the requirements of the Compact;

''(B) to coordinating with the Nevada Department of Transportation, Caltrans, State parks, and other entities along Nevada Highway 28 and California Highway 89; and

''(C) to providing support and assistance to local public transit systems in the management and operations of activities under this subsection.

''(2) NATIONAL FOREST TRANSIT PROGRAM.—Consistent with the support and assistance provided under paragraph (1)(C), the Secretary, in consultation with the Secretary of Transportation, may enter into a contract, cooperative agreement, interagency agreement, or other agreement with the Department of Transportation to secure operating and capital funds from the National Forest Transit Program.

''(d) FOREST MANAGEMENT ACTIVITIES.—

''(1) COORDINATION.—

''(A) IN GENERAL.—In conducting forest management activities in the Lake Tahoe Basin Management Unit, the Secretary shall, as appropriate, coordinate with the Administrator and State and local agencies and organizations, including local fire departments and volunteer groups.

''(B) GOALS.—The coordination of activities under subparagraph (A) should aim to increase efficiencies and maximize the compatibility of management practices across public property boundaries.

''(2) MULTIPLE BENEFITS.—

''(A) IN GENERAL.—In conducting forest management activities in the Lake Tahoe Basin Management Unit, the Secretary shall conduct the activities in a manner that—

''(i) except as provided in subparagraph (B), attains multiple ecosystem benefits, including—

''(I) reducing forest fuels;

''(II) maintaining or restoring biological diversity;

''(III) improving wetland and water quality, including in Stream Environment Zones; and

''(IV) increasing resilience to changing climatic conditions; and

''(ii) helps achieve and maintain the environmental threshold carrying capacities established by the Planning Agency.

''(B) EXCEPTION.—Notwithstanding subparagraph (A)(i), the attainment of multiple ecosystem benefits shall not be required if the Secretary determines that management for multiple ecosystem benefits would excessively increase the cost of a project in relation to the additional ecosystem benefits gained from the management activity.

''(3) GROUND DISTURBANCE.—Consistent with applicable Federal law and Lake Tahoe Basin Management Unit land and resource management plan direction, the Secretary shall—

''(A) establish post-project ground condition criteria for ground disturbance caused by forest management activities; and

''(B) provide for monitoring to ascertain the attainment of the post-project conditions.

''(e) WITHDRAWAL OF FEDERAL LAND.—

''(1) IN GENERAL.—Subject to valid existing rights and paragraph (2), the Federal land located in the Lake Tahoe Basin Management Unit is withdrawn from—

''(A) all forms of entry, appropriation, or disposal under the public land laws;

''(B) location, entry, and patent under the mining laws; and

''(C) disposition under all laws relating to mineral and geothermal leasing.

''(2) DETERMINATION.—

''(A) IN GENERAL.—The withdrawal under paragraph (1) shall be in effect until the date on which the Secretary, after conducting a review of all Federal land in the Lake Tahoe Basin Management Unit and receiving public input, has made a determination on which parcels of Federal land should remain withdrawn.

''(B) REQUIREMENTS.—The determination of the Secretary under subparagraph (A)—

''(i) shall be effective beginning on the date on which the determination is issued;

''(ii) may be altered by the Secretary as the Secretary determines to be necessary; and

''(iii) shall not be subject to administrative renewal.

''(f) ENVIRONMENTAL THRESHOLD CARRYING CAPACITY.—The Lake Tahoe Basin Management Unit shall support the attainment of the environmental threshold carrying capacities.

''(g) COOPERATIVE AUTHORITIES.—

''(1) IN GENERAL.—During the 4 fiscal years following the date of enactment of the Lake

Tahoe Restoration Act of 2010, the Secretary, in conjunction with land adjustment projects or programs, may enter into contracts and cooperative agreements with States, units of local government, and other public and private entities to provide for fuel reduction, erosion control, reforestation, Stream Environment Zone restoration, and similar management activities on Federal land and non-Federal land within the projects or programs.

''(2) REPORT ON LAND STATUS.—

''(A) IN GENERAL.—Not later than 2 years after the date of enactment of the Lake Tahoe Restoration Act of 2010, the Secretary shall submit to Congress a report regarding the management of land in the Lake Tahoe Basin Management Unit Urban Lots Program, including—

''(i) a description of future plans and recent actions for land consolidation and adjustment; and

''(ii) the identification of any obstacles to desired conveyances or interchanges.

''(B) INCLUSIONS.—The report submitted under subparagraph (A) may contain recommendations for additional legislative authority.

''(C) EFFECT.—Nothing in this paragraph delays the conveyance of parcels under—

''(i) the authority of this Act; or

''(ii) any other authority available to the Secretary.

''(3) SUPPLEMENTAL AUTHORITY.—The authority of this subsection is supplemental to all other cooperative authorities of the Secretary.''.

SEC. 10215. CONSULTATION.

The Lake Tahoe Restoration Act (Public Law 106–506; 114 Stat. 2351) is amended by striking section 5 and inserting the following:

''SEC. 5. CONSULTATION.

''In carrying out this Act, the Secretary, the Administrator, and the Director shall, as appropriate and in a timely manner, consult with the heads of the Washoe Tribe, applicable Federal, State, regional, and local governmental agencies, and the Lake Tahoe Federal Advisory Committee.''.

SEC. 10216. AUTHORIZED PROJECTS.

The Lake Tahoe Restoration Act (Public Law 106–506; 114 Stat. 2351) is amended by striking section 6 and inserting the following:

''SEC. 6. AUTHORIZED PROJECTS.

''(a) IN GENERAL.—The Secretary, the Director, and the Administrator, in coordination with the Planning Agency and the States of California and Nevada, may carry out or provide financial assistance to any project or program described in subsection (c) or included in the Priority List under section 8 to further the purposes of the Environmental Improvement Program if the project has been subject to environmental review and approval, respectively, as required under Federal law, article 7 of the Compact, and State law, as applicable. The Administrator shall use no more than three percent of the funds provided for administering the projects or programs described in subsection (c)(1) and (2).

''(b) MONITORING AND ASSESSMENT.—All projects authorized under subsection (c) and section 8 shall—

''(1) include funds for monitoring and assessment of the results and effectiveness at the project and program level consistent with the program developed under section 11; and

''(2) use the integrated multiagency performance measures established under that section.

''(c) DESCRIPTION OF ACTIVITIES.—

''(1) STORMWATER MANAGEMENT, EROSION CONTROL, AND TOTAL MAXIMUM DAILY LOAD IMPLEMENTATION.—Of the amounts made available under section 18(a), $40,000,000 shall be made available for grants by the Administrator for the Federal share of the following projects:

''(A) Bijou Stormwater Improvement Project in the City of South Lake Tahoe, California.

''(B) Christmas Valley Stormwater Improvement Project in El Dorado County, California.

''(C) Kings Beach Watershed Improvement Project in Placer County, California.

''(D) Lake Forest Stormwater and Watershed Improvement Project in Placer County, California.

''(E) Crystal Bay Stormwater Improvement Project in Washoe County, Nevada.

''(F) Washoe County Stormwater Improvement Projects 4, 5, and 6 in Washoe County, Nevada.

''(G) Upper and Lower Kingsbury Project in Douglas County, Nevada.

''(H) Lake Village Drive-Phase II Stormwater Improvement in Douglas County, Nevada.

''(I) State Route 28 Spooner to Sand Harbor Stormwater Improvement, Washoe County, Nevada.

''(J) State Route 431 Stormwater Improvement, Washoe County, Nevada.

''(2) STREAM ENVIRONMENT ZONE AND WATERSHED RESTORATION.—Of the amounts made available under section 18(a), $32,000,000 shall be made available for grants by the Administrator for the Federal share of the following projects:

''(A) Upper Truckee River and Marsh Restoration Project.

''(B) Upper Truckee River Mosher, Reaches 1 & 2.

''(C) Upper Truckee River Sunset Stables.

''(D) Lower Blackwood Creek Restoration Project.

''(E) Ward Creek.

''(F) Third Creek/Incline Creek Watershed Restoration.

''(G) Rosewood Creek Restoration Project.

''(3) FIRE RISK REDUCTION AND FOREST MANAGEMENT.—

''(A) IN GENERAL.—Of the amounts made available under section 18(a), $136,000,000 shall be made available for assistance by the Secretary for the following projects:

''(i) Projects identified as part of the Lake Tahoe Basin Multi-Jurisdictional Fuel Reduction and Wildfire Prevention Strategy 10-Year Plan.

''(ii) Competitive grants for fuels work to be awarded by the Secretary to communities that have adopted national wildland fire codes to implement the applicable portion of the 10-year plan described in clause (i).

''(iii) Biomass projects, including feasibility assessments and transportation of materials.

''(iv) Angora Fire Restoration projects under the jurisdiction of the Secretary.

''(v) Washoe Tribe projects on tribal lands within the Lake Tahoe Basin.

''(B) MULTIPLE BENEFIT FUELS PROJECTS.—Consistent with the requirements of section 4(d)(2), not more than $10,000,000 of the amounts made available to carry out subparagraph (A) shall be available to the Secretary for the planning and implementation of multiple benefit fuels projects with an emphasis on restoration projects in Stream Environment Zones.

''(C) MINIMUM ALLOCATION.—Of the amounts made available to carry out subparagraph (A), at least $80,000,000 shall be made available to the Secretary for projects under subparagraph (A)(i).

''(D) PRIORITY.—Units of local government that have dedicated funding for inspections and enforcement of defensible space regulations shall be given priority for amounts provided under this paragraph.

''(E) COST-SHARING REQUIREMENTS.—As a condition on the receipt of funds, communities or local fire districts that receive funds under this paragraph shall provide a 25 percent match.

''(4) INVASIVE SPECIES MANAGEMENT.—Of the amounts to be made available under section 18(a), $20,500,000 shall be made available to the Director for the Aquatic Invasive Species Program and the watercraft inspections described in section 9.

''(5) SPECIAL STATUS SPECIES MANAGEMENT.—Of the amounts to be made available under section 18(a), $20,000,000 shall be made available to the Director for the Lahontan Cutthroat Trout Recovery Program.

''(6) LAKE TAHOE BASIN PROGRAM.—Of the amounts to be made available under section 18(a), $30,000,000 shall be used to develop and implement the Lake Tahoe Basin Program developed under section 11.

''(d) USE OF REMAINING FUNDS.—Any amounts made available under section 18(a) that remain available after projects described in subsection (c) have been funded shall be made available for projects included in the Priority List under section 8.''.

SEC. 10217. ENVIRONMENTAL RESTORATION PRIORITY LIST.

The Lake Tahoe Restoration Act (Public Law 106–506; 114 Stat. 2351) is amended—

(1) by striking sections 8 and 9;

(2) by redesignating sections 10, 11, and 12 as sections 16, 17, and 18, respectively; and

(3) by inserting after section 7 the following:

''SEC. 8. ENVIRONMENTAL RESTORATION PRIORITY LIST.

''(a) FUNDING.—Subject to section 6(d), of the amounts to be made available under section 18(a), at least $136,000,000 shall be made available for projects identified on the Priority List.

''(b) DEADLINE.—Not later than February 15 of the year after the date of enactment of the Lake Tahoe Restoration Act of 2010, the Chair, in consultation with the Secretary, the Administrator, the Director, the Planning Agency, the States of California and Nevada, the Federal Partnership, the Washoe Tribe, the Lake Tahoe Federal Advisory Committee, and the Tahoe Science Consortium shall submit to Congress a prioritized list of all Environmental Improvement Program projects for the Lake Tahoe Basin, regardless of program category.

''(c) CRITERIA.—

''(1) IN GENERAL.—The priority of projects included in the Priority List shall be based on the best available science and the following criteria:

''(A) The 5-year threshold carrying capacity evaluation.

''(B) The ability to measure progress or success of the project.

''(C) The potential to significantly contribute to the achievement and maintenance of the environmental threshold carrying capacities identified in the Compact for—

''(i) air quality;

''(ii) fisheries;

''(iii) noise;

''(iv) recreation;

''(v) scenic resources;

''(vi) soil conservation;

''(vii) forest health;

''(viii) water quality; and

''(ix) wildlife.

''(D) The ability of a project to provide multiple benefits.

''(E) The ability of a project to leverage non-Federal contributions.

''(F) Stakeholder support for the project.

''(G) The justification of Federal interest.

''(H) Agency priority.

''(I) Agency capacity.

''(J) Cost-effectiveness.

''(K) Federal funding history.

''(2) SECONDARY FACTORS.—In addition to the criteria under paragraph (1), the Chair shall, as the Chair determines to be appropriate, give preference to projects in the Priority List that benefit existing neighborhoods in the Basin that are at or below regional median income levels, based on the most recent census data available.

''(3) EROSION CONTROL PROJECTS.—For purposes of the Priority List and section 6(c)(1), erosion control projects shall be considered part of the stormwater management and total maximum daily load program of the Environmental Improvement Program. The Administrator shall coordinate with the Secretary on such projects.

''(d) REVISIONS.—

''(1) IN GENERAL.—The Priority List submitted under subsection (b) shall be revised—

''(A) every 4 years; or

''(B) on a finding of compelling need under paragraph (2).

''(2) FINDING OF COMPELLING NEED.—

''(A) IN GENERAL.—If the Secretary, the Administrator, or the Director makes a finding of compelling need justifying a priority shift and the finding is approved by the Secretary, the Executive Director of the Planning Agency, the California Natural Resources Secretary, and the Director of the Nevada Department of Conservation, the Priority List shall be revised in accordance with this subsection.

''(B) INCLUSIONS.—A finding of compelling need includes—

''(i) major scientific findings;

''(ii) results from the threshold evaluation of the Planning Agency;

''(iii) emerging environmental threats; and

''(iv) rare opportunities for land acquisition.

''SEC. 9. AQUATIC INVASIVE SPECIES PREVENTION.

''(a) IN GENERAL.—Not later than 60 days after the date of enactment of the Lake Tahoe Restoration Act of 2010, the Director, in coordination with the Planning Agency, the California Department of Fish and Game, and the Nevada Department of Wildlife, shall deploy strategies that meet or exceed the criteria described in subsection (b) for preventing the introduction of aquatic invasive species into the Lake Tahoe Basin.

''(b) CRITERIA.—The strategies referred to in subsection (a) shall provide that—

''(1) combined inspection and decontamination stations be established and operated at not less than 2 locations in the Lake Tahoe Basin;

''(2) watercraft not be allowed to launch in waters of the Lake Tahoe Basin if the watercraft—

''(A) has been in waters infested by quagga or zebra mussels;

''(B) shows evidence of invasive species that the Director has determined would be detrimental to the Lake Tahoe ecosystem; or

''(C) cannot be reliably decontaminated in accordance with paragraph (3);

''(3) subject to paragraph (4), all watercraft surfaces and appurtenance (such as anchors and fenders) that contact with water shall be reliably decontaminated, based on standards developed by the Director using the best available science;

''(4) watercraft bearing positive verification of having last launched within the Lake Tahoe Basin may be exempted from decontamination under paragraph (3); and

''(5) while in the Lake Tahoe Basin, all watercraft maintain documentation of compliance with the strategies deployed under this section.

''(c) CERTIFICATION.—The Director may certify State agencies to perform the decontamination activities described in subsection (b)(3) at locations outside the Lake Tahoe Basin if standards at the sites meet or exceed standards for similar sites in the Lake Tahoe Basin established under this section.

''(d) APPLICABILITY.—The strategies and criteria developed under this section shall apply to all watercraft to be launched on water within the Lake Tahoe Basin.

''(e) FEES.—The Director may collect and spend fees for decontamination only at a level sufficient to cover the costs of operation of inspection and decontamination stations under this section.

''(f) CIVIL PENALTIES.—

''(1) IN GENERAL.—Any person that launches, attempts to launch, or facilitates launching of watercraft not in compliance with strategies deployed under this section shall be liable for a civil penalty in an amount not to exceed $1,000 per violation.

''(2) OTHER AUTHORITIES.—Any penalties assessed under this subsection shall be separate from penalties assessed under any other authority.

''(g) LIMITATION.—The strategies and criteria under subsections (a) and (b), respectively, may be modified if the Secretary of the Interior, in a nondelegable capacity and in consultation with the Planning Agency and State governments, issues a determination that alternative measures will be no less effective at preventing introduction of aquatic invasive species into Lake Tahoe than the strategies and criteria.

''(h) FUNDING.—Of the amounts made available under section 6(c)(4), not more than $500,000 shall be made available to the Director, in coordination with the Planning Agency and State governments—

''(1) to evaluate the feasibility, cost, and potential effectiveness of further efforts that could be undertaken by the Federal Government, State and local governments, or private entities to guard against introduction of aquatic invasive species into Lake Tahoe, including the potential establishment of inspection and decontamination stations on major transitways entering the Lake Tahoe Basin; and

''(2) to evaluate and identify options for ensuring that all waters connected to Lake Tahoe are protected from quagga and zebra mussels and other aquatic invasive species.

''(i) SUPPLEMENTAL AUTHORITY.—The authority under this section is supplemental to all actions taken by non-Federal regulatory authorities.

''(j) SAVINGS CLAUSE.—Nothing in this title shall be construed as restricting, affecting, or amending any other law or the authority of any department, instrumentality, or agency of the United States, or any State or political subdivision thereof, respecting the control of invasive species.

''SEC. 10. ARMY CORPS OF ENGINEERS; INTERAGENCY AGREEMENTS.

''(a) IN GENERAL.—The Assistant Secretary may enter into interagency agreements with non-Federal interests in the Lake Tahoe Basin to use Lake Tahoe Partnership-Miscellaneous General Investigations funds to provide programmatic technical assistance for the Environmental Improvement Program.

''(b) LOCAL COOPERATION AGREEMENTS.—

''(1) IN GENERAL.—Before providing technical assistance under this section, the Assistant Secretary shall enter into a local cooperation agreement with a non-Federal interest to provide for the technical assistance.

''(2) COMPONENTS.—The agreement entered into under paragraph (1) shall—

''(A) describe the nature of the technical assistance;

''(B) describe any legal and institutional structures necessary to ensure the effective long-term viability of the end products by the non-Federal interest; and

''(C) include cost-sharing provisions in accordance with paragraph (3).

''(3) FEDERAL SHARE.—

''(A) IN GENERAL.—The Federal share of project costs under each local cooperation agreement under this subsection shall be 65 percent.

''(B) FORM.—The Federal share may be in the form of reimbursements of project costs.

''(C) CREDIT.—The non-Federal interest may receive credit toward the non-Federal share for the reasonable costs of related technical activities completed by the non-Federal interest before entering into a local cooperation agreement with the Assistant Secretary under this subsection.

''SEC. 11. LAKE TAHOE BASIN PROGRAM.

''The Administrator, in cooperation with the Secretary, the Planning Agency, the States of California and Nevada, and the Tahoe Science Consortium, shall develop and implement the Lake Tahoe Basin Program that—

''(1) develops and regularly updates an integrated multiagency programmatic assessment and monitoring plan—

''(A) to evaluate the effectiveness of the Environmental Improvement Program;

''(B) to evaluate the status and trends of indicators related to environmental threshold carrying capacities; and

''(C) to assess the impacts and risks of changing climatic conditions and invasive species;

''(2) develops a comprehensive set of performance measures for Environmental Improvement Program assessment;

''(3) coordinates the development of the annual report described in section 13;

''(4) produces and synthesizes scientific information necessary for—

''(A) the identification and refinement of environmental indicators for the Lake Tahoe Basin; and

''(B) the evaluation of standards and benchmarks;

''(5) conducts applied research, programmatic technical assessments, scientific data management, analysis, and reporting related to key management questions;

''(6) develops new tools and information to support objective assessments of land use and resource conditions;

''(7) provides scientific and technical support to the Federal Government and State and local governments in—

''(A) reducing stormwater runoff, air deposition, and other pollutants that contribute to the loss of lake clarity; and

''(B) the development and implementation of an integrated stormwater monitoring and assessment program;

''(8) establishes and maintains independent peer review processes—

''(A) to evaluate the Environmental Improvement Program; and

''(B) to assess the technical adequacy and scientific consistency of central environmental documents, such as the 5-year threshold review; and

''(9) provides scientific and technical support for the development of appropriate management strategies to accommodate changing climatic conditions in the Lake Tahoe Basin.

''SEC. 12. PUBLIC OUTREACH AND EDUCATION.

''(a) IN GENERAL.—The Secretary, Administrator, and Director will coordinate with the Planning Agency to conduct public education and outreach programs, including encouraging—

''(1) owners of land and residences in the Lake Tahoe Basin—

''(A) to implement defensible space; and

''(B) to conduct best management practices for water quality; and

''(2) owners of land and residences in the Lake Tahoe Basin and visitors to the Lake Tahoe Basin, to help prevent the introduction and proliferation of invasive species as part of the private share investment in the Environmental Improvement Program.

''(b) REQUIRED COORDINATION.—Public outreach and education programs for aquatic invasive species under this section shall—

''(1) be coordinated with Lake Tahoe Basin tourism and business organizations; and

''(2) include provisions for the programs to extend outside of the Lake Tahoe Basin.

''SEC. 13. REPORTING REQUIREMENTS.

''Not later than February 15 of each year, the Administrator, in cooperation with the Chair, the Secretary, the Director, the Planning Agency, and the States of California and Nevada, consistent with section 6(c)(6) and section 11, shall submit to Congress a report that describes—

''(1) the status of all Federal, State, local, and private projects authorized under this Act, including to the maximum extent practicable, for projects that will receive Federal funds under this Act during the current or subsequent fiscal year—

''(A) the project scope;

''(B) the budget for the project; and

''(C) the justification for the project, consistent with the criteria established in section 8(c)(1);

''(2) Federal, State, local, and private expenditures in the preceding fiscal year to implement the Environmental Improvement Program and projects otherwise authorized under this Act;

''(3) accomplishments in the preceding fiscal year in implementing this Act in accordance with the performance measures and other monitoring and assessment activities; and

''(4) public education and outreach efforts undertaken to implement programs and projects authorized under this Act.

''SEC. 14. ANNUAL BUDGET PLAN.

''As part of the annual budget of the President, the President shall submit information regarding each Federal agency involved in the Environmental Improvement Program (including the Forest Service, the Environmental Protection Agency, and the United States Fish and Wildlife Service), including—

''(1) an interagency crosscut budget that displays the proposed budget for use by each Federal agency in carrying out restoration activities relating to the Environmental Improvement Program for the following fiscal year;

''(2) a detailed accounting of all amounts received and obligated by Federal agencies to achieve the goals of the Environmental Improvement Program during the preceding fiscal year; and

''(3) a description of the Federal role in the Environmental Improvement Program, including the specific role of each agency involved in the restoration of the Lake Tahoe Basin.

''SEC. 15. GRANT FOR WATERSHED STRATEGY.

''(a) IN GENERAL.—Of the amounts to be made available under section 18(a), the Administrator shall use not more than $500,000 to provide a grant, on a competitive basis, to States, federally recognized Indian tribes, interstate agencies, other public or nonprofit agencies and institutions, or institutions of higher education to develop a Lake Tahoe Basin watershed strategy in coordination with the Planning Agency, the States of California and Nevada, and the Secretary.

''(b) COMMENT.—In developing the watershed strategy under subsection (a), the grant recipients shall provide an opportunity for public review and comment.

''(c) COMPONENTS.—The watershed strategy developed under subsection (a) shall include—

''(1) a classification system, inventory, and assessment of stream environment zones;

''(2) comprehensive watershed characterization and restoration priorities consistent with—

''(A) the Lake Tahoe total maximum daily load; and

''(B) the environmental threshold carrying capacities of Lake Tahoe;

''(3) a monitoring and assessment program consistent with section 11; and

''(4) an adaptive management system—

''(A) to measure and evaluate progress; and

''(B) to adjust the program.

''(d) DEADLINE.—The watershed strategy developed under subsection (a) shall be completed by the date that is 2 years after the date on which funds are made available to carry out this section.''.

SEC. 10218. RELATIONSHIP TO OTHER LAWS.

Section 17 of The Lake Tahoe Restoration Act (Public Law 106–506; 114 Stat. 2358) (as redesignated by section 10217(2)) is amended by inserting '', Director, or Administrator'' after ''Secretary''.

SEC. 10219. AUTHORIZATION OF APPROPRIATIONS.

The Lake Tahoe Restoration Act (Public Law 106–506; 114 Stat. 2351) is amended by striking section 18 (as redesignated by section 10217(2)) and inserting the following:

''SEC. 18. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—There is authorized to be appropriated to carry out this Act $415,000,000 for a period of 8 fiscal years beginning the first fiscal year after the date of enactment of the Lake Tahoe Restoration Act of 2010.

''(b) EFFECT ON OTHER FUNDS.—Amounts authorized under this section and any amendments made by this Act—

''(1) shall be in addition to any other amounts made available to the Secretary, Administrator, or Director for expenditure in the Lake Tahoe Basin; and

''(2) shall not reduce allocations for other Regions of the Forest Service, Environmental Protection Agency, or United States Fish and Wildlife Service.

''(c) COST-SHARING REQUIREMENT.—Except as provided in subsection (d) and section 6(c)(3)(E), the States of California and Nevada shall pay 50 percent of the aggregate costs of restoration activities in the Lake Tahoe Basin funded under section 6 or 8.

''(d) RELOCATION COSTS.—Notwithstanding subsection (c), the Secretary shall provide to local utility districts ⅔ the costs of relocating facilities in connection with—

''(1) environmental restoration projects under sections 6 and 8; and

''(2) erosion control projects under section 2 of Public Law 96–586 (94 Stat. 3381).

''(e) SIGNAGE.—To the maximum extent practicable, a project provided assistance under this Act shall include appropriate signage at the project site that—

''(1) provides information to the public on—

''(A) the amount of Federal funds being provided to the project; and

''(B) this Act; and

''(2) displays the visual identity mark of the Environmental Improvement Program.''.

SEC. 10220. CONFORMING AMENDMENTS.

(a) ADMINISTRATION OF ACQUIRED LAND.—Section 3(b) of Public Law 96–586 (94 Stat. 3384) is amended—

(1) by striking ''(b) Lands'' and inserting the following:

''(b) ADMINISTRATION OF ACQUIRED LAND.—

''(1) IN GENERAL.—Land''; and

(2) by adding at the end the following:

''(2) INTERCHANGE.—

''(A) IN GENERAL.—Notwithstanding paragraph (1), the Secretary of Agriculture (acting through the Chief of the Forest Service) (referred to in this paragraph as the 'Secretary') may interchange (as defined in the first section of Public Law 97–465 (16 U.S.C. 521c)) any land or interest in land within the Lake Tahoe Basin Management Unit described in subparagraph (B) with appropriate units of State government.

''(B) ELIGIBLE LAND.—The land or interest in land referred to in subparagraph (A) is land or an interest in land that the Secretary determines is not subject to efficient administration by the Secretary because of the location or size of the land.

''(C) REQUIREMENTS.—In any interchange under this paragraph, the Secretary shall—

''(i) insert in the applicable deed such terms, covenants, conditions, and reservations as the Secretary determines to be necessary to ensure—

''(I) protection of the public interest, including protection of the scenic, wildlife, and recreational values of the National Forest System; and

''(II) the provision for appropriate access to, and use of, land within the National Forest System;

''(ii) receive land within the Lake Tahoe Basin of approximately equal value (as defined in accordance with section 6(2) of Public Law 97–465 (96 Stat. 2535)); and

''(iii) for the purposes of any environmental assessment—

''(I) assume the maintenance of the environmental status quo; and

''(II) not be required to individually assess each parcel that is managed under the Lake Tahoe Basin Management Unit Urban Lots Program.

''(D) USE OF LAND ACQUIRED BY UNITS OF STATE GOVERNMENT.—Any unit of State government that receives National Forest System land through an exchange or transfer under this paragraph shall not convey the land to any person or entity other than the Federal Government or a State government.''.

(b) INTERAGENCY AGREEMENT FUNDING.—Section 108(g) of title I of division C of the Consolidated Appropriations Act, 2005 (Public Law 108–447; 118 Stat. 2942) is amended by striking ''$25,000,000'' and inserting ''$75,000,000''.

Subtitle C—Clean Estuaries

SEC. 10221. SHORT TITLE.

This subtitle may be cited as the ''Clean Estuaries Act of 2010''.

SEC. 10222. NATIONAL ESTUARY PROGRAM AMENDMENTS.

(a) PURPOSES OF CONFERENCE.—

(1) DEVELOPMENT OF COMPREHENSIVE CONSERVATION AND MANAGEMENT PLANS.—Section 320(b) of the Federal Water Pollution Control Act (33 U.S.C. 1330(b)) is amended by striking paragraph (4) and inserting the following:

''(4) develop and submit to the Administrator a comprehensive conservation and management plan that—

''(A) identifies the estuary and the associated upstream waters of the estuary to be addressed by the plan, with consideration given to hydrological boundaries;

''(B) recommends priority protection, conservation, and corrective actions and compliance schedules that address point and nonpoint sources of pollution—

''(i) to restore and maintain the chemical, physical, and biological integrity of the estuary, including—

''(I) restoration and maintenance of water quality, including wetlands and natural hydrologic flows;

''(II) a resilient and diverse indigenous population of shellfish, fish, and wildlife; and

''(III) recreational activities in the estuary; and

''(ii) to ensure that the designated uses of the estuary are protected;

''(C)(i) identifies healthy and impaired watershed components, including significant impairments that are outside the area addressed by the plan that could affect the water quality and ecological integrity of the estuary, and the sources of those impairments, by carrying out integrated assessments that include assessments of—

''(I) aquatic habitat and biological integrity;

''(II) water quality; and

''(III) natural hydrologic flows; and

''(ii) provides the applicable Federal or State authority with information on any identified impairments and the sources of those impairments;

''(D) considers current and future sustainable commercial activities in the estuary;

''(E) addresses the impacts of climate change on the estuary, including—

''(i) the identification and assessment of vulnerabilities in the estuary;

''(ii) the development and implementation of adaptation strategies; and

''(iii) the impacts of changes in sea level on estuarine water quality, estuarine habitat, and infrastructure located in the estuary;

''(F) increases public education and awareness with respect to—

''(i) the ecological health of the estuary;

''(ii) the water quality conditions of the estuary; and

''(iii) ocean, estuarine, land, and atmospheric connections and interactions;

''(G) includes performance measures and goals to track implementation of the plan; and

''(H) includes a coordinated monitoring strategy for Federal, State, and local governments and other entities.''.

(2) MONITORING AND MAKING RESULTS AVAILABLE.—Section 320(b) of the Federal Water Pollution Control Act (33 U.S.C. 1330(b)) is amended by striking paragraph (6) and inserting the following:

''(6) monitor (and make results available to the public regarding)—

''(A) water quality conditions in the estuary and the associated upstream waters of the estuary identified under paragraph (4)(A);

''(B) watershed and habitat conditions that relate to the ecological health and water quality conditions of the estuary; and

''(C) the effectiveness of actions taken pursuant to the comprehensive conservation and management plan developed for the estuary under this subsection;''.

(3) INFORMATION AND EDUCATIONAL ACTIVITIES.—Section 320(b) of the Federal Water Pollution Control Act (33 U.S.C. 1330(b)) is amended—

(A) by redesignating paragraph (7) as paragraph (8); and

(B) by inserting after paragraph (6) the following:

''(7) provide information and educational activities on the ecological health and water quality conditions of the estuary; and''.

(4) CONFORMING AMENDMENT.—The sentence following section 320(b)(8) of the Federal Water Pollution Control Act (as so redesignated) (33 U.S.C. 1330(b)(8)) is amended by striking ''paragraph (7)'' and inserting ''paragraph (8)''.

(b) MEMBERS OF CONFERENCE; COLLABORATIVE PROCESSES.—

(1) MEMBERS OF CONFERENCE.—Section 320(c)(5) of the Federal Water Pollution Control Act (33 U.S.C. 1330(c)(5)) is amended by inserting ''not-for-profit organizations,'' after ''institutions,''.

(2) COLLABORATIVE PROCESSES.—Section 320(d) of the Federal Water Pollution Control Act (33 U.S.C. 1330(d)) is amended—

(A) by striking ''(d)'' and all that follows through ''In developing'' and inserting the following:

''(d) USE OF EXISTING DATA AND COLLABORATIVE PROCESSES.—

''(1) USE OF EXISTING DATA.—In developing''; and

(B) by adding at the end the following:

''(2) USE OF COLLABORATIVE PROCESSES.—In updating a plan under subsection (f)(4) or developing a new plan under subsection (b), a management conference shall make use of collaborative processes—

''(A) to ensure equitable inclusion of affected interests;

''(B) to engage with members of the management conference, including through—

''(i) the use of consensus-based decision rules; and

''(ii) assistance from impartial facilitators, as appropriate;

''(C) to ensure relevant information, including scientific, technical, and cultural information, is accessible to members;

''(D) to promote accountability and transparency by ensuring members are informed in a timely manner of—

''(i) the purposes and objectives of the management conference; and

''(ii) the results of an evaluation conducted under subsection (f)(6);

''(E) to identify the roles and responsibilities of members—

''(i) in the management conference proceedings; and

''(ii) in the implementation of the plan; and

''(F) to seek resolution of conflicts or disputes as necessary.''.

(c) ADMINISTRATION OF PLANS.—Section 320 of the Federal Water Pollution Control Act (33 U.S.C. 1330) is amended by striking subsection (f) and inserting the following:

''(f) ADMINISTRATION OF PLANS.—

''(1) APPROVAL.—Not later than 120 days after the date on which a management conference submits to the Administrator a comprehensive conservation and management plan under this section, and after providing for public review and comment, the Administrator shall approve the plan, if—

''(A) the Administrator determines that the plan meets the requirements of this section; and

''(B) each affected Governor concurs.

''(2) COMPLETENESS.—

''(A) IN GENERAL.—If the Administrator finds that a plan is incomplete under paragraph (1) or (7), the Administrator shall—

''(i) provide the management conference with written notification of the basis of that finding; and

''(ii) allow the management conference to resubmit a revised plan that addresses, to the maximum extent practicable, the comments contained in the written notification of the Administrator described in clause (i).

''(B) RESUBMISSION.—If the Administrator finds that a revised plan submitted under subparagraph (A)(ii) remains incomplete under paragraph (1) or (7), the Administrator shall allow the management conference to resubmit a revised plan under the same procedures described in subparagraph (A).

''(C) SCOPE OF REVIEW.—In determining whether to approve a comprehensive conservation and management plan under paragraph (1) or (7), the Administrator—

''(i) shall limit the scope of review to a determination of whether the plan meets the minimum requirements of this section; and

''(ii) may not impose, as a condition of approval, any additional requirements.

''(3) FAILURE OF THE ADMINISTRATOR TO RESPOND.—If, by the date that is 120 days after the date on which a plan is submitted or resubmitted under paragraphs (1), (2), or (7) the Administrator fails to respond to the submission or resubmission in writing, the plan shall be considered approved.

''(4) FAILURE TO SUBMIT A PLAN.—If, by the date that is 3 years after the date on which a management conference is convened, that management conference fails to submit a comprehensive conservation and management plan or to secure approval for the comprehensive conservation and management plan under this subsection, the Administrator shall terminate the management conference convened under this section.

''(5) IMPLEMENTATION.—

''(A) IN GENERAL.—On the approval of a comprehensive conservation and management plan under this section, the plan shall be implemented.

''(B) USE OF AUTHORIZED AMOUNTS.—Amounts authorized to be appropriated under titles II and VI and section 319 may be used in accordance with the applicable requirements of this Act to assist States with the implementation of a plan approved under paragraph (1).

''(6) EVALUATION.—

''(A) IN GENERAL.—Not later than 5 years after the date of enactment of this paragraph, and every 5 years thereafter, the Administrator shall carry out an evaluation of the implementation of each comprehensive conservation and management plan developed under this section to determine the degree to which the goals of the plan have been met.

''(B) REVIEW AND COMMENT BY MANAGEMENT CONFERENCE.—In completing an evaluation under subparagraph (A), the Administrator shall submit the results of the evaluation to the appropriate management conference for review and comment.

''(C) REPORT.—

''(i) IN GENERAL.—In completing an evaluation under subparagraph (A), and after providing an opportunity for a management conference to submit comments under subparagraph (B), the Administrator shall issue a report on the results of the evaluation, including the findings and recommendations of the Administrator and any comments received from the management conference.

''(ii) AVAILABILITY TO PUBLIC.—The Administrator shall make a report issued under this subparagraph available to the public, including through publication in the Federal Register and on the Internet.

''(D) SPECIAL RULE FOR NEW PLANS.—Notwithstanding subparagraph (A), if a management conference submits a new comprehensive conservation and management plan to the Administrator after the date of enactment of this paragraph, the Administrator shall complete the evaluation of the implementation of the plan required by subparagraph (A) not later than 5 years after the date of such submission and every 5 years thereafter.

''(7) UPDATES.—

''(A) REQUIREMENT.—Not later than 18 months after the date on which the Administrator makes an evaluation of the implementation of a comprehensive conservation and management plan available to the public under paragraph (6)(C), a management conference convened under this section shall submit to the Administrator an update of the plan that reflects, to the maximum extent practicable, the results of the program evaluation.

''(B) APPROVAL OF UPDATES.—Not later than 120 days after the date on which a management conference submits to the Administrator an updated comprehensive conservation and management plan under subparagraph (A), and after providing for public review and comment, the Administrator shall

approve the updated plan, if the Administrator determines that the updated plan meets the requirements of this section.

''(8) PROBATIONARY STATUS.—The Administrator may consider a management conference convened under this section to be in probationary status, if the management conference has not received approval for an updated comprehensive conservation and management plan under paragraph (7)(B) on or before the last day of the 3-year period beginning on the date on which the Administrator makes an evaluation of the plan available to the public under paragraph (6)(C).''.

(d) FEDERAL AGENCIES.—Section 320 of the Federal Water Pollution Control Act (33 U.S.C. 1330) is amended—

(1) by redesignating subsections (g), (h), (i), (j), and (k) as subsections (h), (i), (j), (k), and (m), respectively; and

(2) by inserting after subsection (f) the following:

''(g) FEDERAL AGENCIES.—

''(1) ACTIVITIES CONDUCTED WITHIN ESTUARIES WITH APPROVED PLANS.—After approval of a comprehensive conservation and management plan by the Administrator, any Federal action or activity affecting the estuary shall be conducted, to the maximum extent practicable, in a manner consistent with the plan.

''(2) COORDINATION AND COOPERATION.—

''(A) IN GENERAL.—The Secretary of the Army (acting through the Chief of Engineers), the Administrator of the National Oceanic and Atmospheric Administration, the Director of the United States Fish and Wildlife Service, the Secretary of the Department of Agriculture, the Director of the United States Geological Survey, the Secretary of the Department of Transportation, the Secretary of the Department of Housing and Urban Development, and the heads of other appropriate Federal agencies, as determined by the Administrator, shall, to the maximum extent practicable, cooperate and coordinate activities, including monitoring activities, related to the implementation of a comprehensive conservation and management plan approved by the Administrator.

''(B) LEAD COORDINATING AGENCY.—The Environmental Protection Agency shall serve as the lead coordinating agency under this paragraph.

''(3) CONSIDERATION OF PLANS IN AGENCY BUDGET REQUESTS.—In making an annual budget request for a Federal agency referred to in paragraph (2), the head of such agency shall consider the responsibilities of the agency under this section, including under comprehensive conservation and management plans approved by the Administrator.

''(4) MONITORING.—The heads of the Federal agencies referred to in paragraph (2) shall collaborate on the development of tools and methodologies for monitoring the ecological health and water quality conditions of estuaries covered by a management conference convened under this section.''.

(e) GRANTS.—

(1) IN GENERAL.—Subsection (h) (as redesignated by subsection (d)) of section 320 of the Federal Water Pollution Control Act (33 U.S.C. 1330) is amended—

(A) in paragraph (1), by striking ''other public'' and all that follows before the period at the end and inserting ''and other public or nonprofit private agencies, institutions, and organizations''; and

(B) by adding at the end the following:

''(4) EFFECTS OF PROBATIONARY STATUS.—

''(A) REDUCTIONS IN GRANT AMOUNTS.—The Administrator shall reduce, by an amount to be determined by the Administrator, grants for the implementation of a comprehensive conservation and management plan developed by a management conference convened under this section, if the Administrator determines that the management conference is in probationary status under subsection (f)(8).

''(B) TERMINATION OF MANAGEMENT CONFERENCES.—The Administrator shall terminate a management conference convened under this section, and cease funding for the implementation of the comprehensive conservation and management plan developed by the management conference, if the Administrator determines that the management conference has been in probationary status for 2 consecutive years.''.

(2) CONFORMING AMENDMENT.—Section 320(i) the Federal Water Pollution Control Act (as redesignated by subsection (d)) is amended by striking ''subsection (g)'' and inserting ''subsection (h)''.

(f) AUTHORIZATION OF APPROPRIATIONS.—Section 320 of the Federal Water Pollution Control Act (33 U.S.C. 1330) (as redesignated by subsection (d)) is amended by striking subsection (j) and inserting the following:

''(j) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There is authorized to be appropriated to the Administrator $75,000,000 for each of fiscal years 2012 through 2017 for—

''(A) expenses relating to the administration of management conferences by the Administrator under this section, except that such expenses shall not exceed 10 percent of the amount appropriated under this subsection;

''(B) making grants under subsection (h); and

''(C) monitoring the implementation of a conservation and management plan by the management conference, or by the Administrator in any case in which the conference has been terminated.

''(2) ALLOCATIONS.—Of the sums authorized to be appropriated under this subsection, the Administrator shall provide—

''(A) at least $1,250,000 per fiscal year, subject to the availability of appropriations, for the development, implementation, and monitoring of each conservation and management plan eligible for grant assistance under subsection (h); and

''(B) up to $5,000,000 per fiscal year to carry out subsection (k).''.

(g) RESEARCH.—Section 320(k)(1)(A) of the Federal Water Pollution Control Act (as redesignated by subsection (d)) is amended—

(1) by striking ''paramenters'' and inserting ''parameters''; and

(2) by inserting ''(including monitoring of both pathways and ecosystems to track the introduction and establishment of nonnative species)'' before '', to provide the Administrator''.

(h) NATIONAL ESTUARY PROGRAM EVALUATION.—Section 320 of the Federal Water Pollution Control Act (33 U.S.C. 1330) is amended by inserting after subsection (k) (as redesignated by subsection (d)) the following:

''(l) NATIONAL ESTUARY PROGRAM EVALUATION.—

''(1) IN GENERAL.—Not later than 5 years after the date of enactment of this paragraph, and every 5 years thereafter, the Administrator shall complete an evaluation of the national estuary program established under this section.

''(2) SPECIFIC ASSESSMENTS.—In conducting an evaluation under this subsection, the Administrator shall—

''(A) assess the effectiveness of the national estuary program in improving water quality, natural resources, and sustainable uses of the estuaries covered by management conferences convened under this section;

''(B) identify best practices for improving water quality, natural resources, and sustainable uses of the estuaries covered by management conferences convened under this section, including those practices funded through the use of technical assistance from the Environmental Protection Agency and other Federal agencies;

''(C) assess the reasons why the best practices described in subparagraph (B) resulted in the achievement of program goals;

''(D) identify any redundant requirements for reporting by recipients of a grant under this section; and

''(E) develop and recommend a plan for limiting reporting any redundancies.

''(3) REPORT.—In completing an evaluation under this subsection, the Administrator shall issue a report on the results of the evaluation, including the findings and recommendations of the Administrator.

''(4) AVAILABILITY.—The Administrator shall make a report issued under this subsection available to management conferences convened under this section and the public, including through publication in the Federal Register and on the Internet.''.

(i) CONVENING OF CONFERENCE.—Section 320(a)(2) of the Federal Water Pollution Control Act (33 U.S.C. 1330(a)(2)) is amended—

(1) by striking ''(2) CONVENING OF CONFERENCE.—'' and all that follows through ''In any case'' and inserting the following:

''(2) CONVENING OF CONFERENCE.—In any case''; and

(2) by striking subparagraph (B).

(j) GREAT LAKES ESTUARIES.—Section 320(m) of the Federal Water Pollution Control Act (as redesignated by subsection (d)) is amended by striking the subsection designation and all that follows through ''and those portions of tributaries'' and inserting the following:

''(m) DEFINITIONS.—In this section, the terms 'estuary' and 'estuarine zone' have the meanings given the terms in section 104(n)(4), except that—

''(1) the term 'estuary' also includes near coastal waters and other bodies of water within the Great Lakes that are similar in form and function to the waters described in the definition of 'estuary' in section 104(n)(4); and

''(2) the term 'estuarine zone' also includes—

''(A) waters within the Great Lakes described in paragraph (1) and transitional areas from such waters that are similar in form and function to the transitional areas described in the definition of 'estuarine zone' in section 104(n)(4);

''(B) associated aquatic ecosystems; and

''(C) those portions of tributaries''.

Subtitle D—Puget Sound Restoration

SEC. 10231. PUGET SOUND RESTORATION.

Title I of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) (as amended by section 10203) is amended by adding at the end the following:

''SEC. 124. PUGET SOUND.

''(a) DEFINITIONS.—In this section:

''(1) ANNUAL PRIORITY LIST.—The term 'annual priority list' means the annual priority list compiled under subsection (d).

''(2) COMPREHENSIVE PLAN.—The term 'comprehensive plan' means—

''(A) the Puget Sound Action Agenda, a comprehensive conservation and management plan approved under section 320; and

''(B) any amendments to that plan.

''(3) DISTRESSED COMMUNITY.—The term 'distressed community' means a community that meets the affordability criteria for distressed communities established by the State of Washington, if the criteria are established after public review and comment.

''(4) EXECUTIVE DIRECTOR.—The term 'Executive Director' means the Executive Director of the Puget Sound Partnership.

''(5) PUGET SOUND FEDERAL CAUCUS.—The term 'Puget Sound Federal Caucus' means the caucus composed of—

''(A) the 13 Federal agencies that signed a memorandum of understanding on November

17, 2008, to establish a collaborative effort among Federal agencies to better integrate, organize, and align Federal efforts in the Puget Sound ecosystem with the comprehensive plan; and

''(B) such other Federal agencies as the Administrator determines to be appropriate.

''(6) PUGET SOUND PARTNERSHIP.—The term 'Puget Sound Partnership' means the agency of the State of Washington, together with associated councils, boards, panels, and caucuses, that is—

''(A) formed under authority of State law for the purpose of protecting and restoring Puget Sound; and

''(B) designated as the management conference under section 320.

''(7) PUGET SOUND TRIBE.—The term 'Puget Sound tribe' means any of the federally recognized Indian tribes within the Puget Sound Basin.

''(8) REGIONAL ADMINISTRATOR.—The term 'Regional Administrator' means the Regional Administrator for Region 10 of the Environmental Protection Agency.

''(b) DELEGATION OF AUTHORITY; STAFFING.—The Administrator shall delegate to the Regional Administrator such authority, and provide such additional staff, as are necessary to carry out this section.

''(c) DUTIES.—

''(1) IN GENERAL.—In carrying out this section, the Administrator, acting through the Regional Administrator, shall—

''(A) carry out the duties assigned to the Administrator under section 320 as a member of the management conference under that section;

''(B) assist in the development and evaluation of the annual priority list;

''(C) provide funding for activities, projects, programs, and studies identified in the approved annual priority list as necessary to advance the goals and objectives of the comprehensive plan;

''(D) promote innovative methodologies and technologies that are cost-effective and able to advance the identified goals and objectives of the comprehensive plan and Environmental Protection Agency permitting processes;

''(E) coordinate the major functions of the Federal Government relating to the implementation of the comprehensive plan, including activities, projects, programs, and studies for—

''(i) water quality improvements;

''(ii) wetland, riverine, and estuary restoration and protection;

''(iii) nearshore restoration and protection;

''(iv) adaptation to climate change;

''(v) critical land protection or acquisitions; and

''(vi) endangered species recovery;

''(F) coordinate the scientific research projects authorized under this section with the activities of Federal agencies, State agencies, Indian tribes, institutions of higher education, and the Science Panel of the Puget Sound Partnership, including conducting or commissioning studies proposed by the Science Panel and included in the annual priority list;

''(G) assist the Puget Sound Partnership in tracking progress toward meeting the identified goals and objectives of the comprehensive plan by—

''(i) providing information to the performance management system used by the Puget Sound Partnership for the purpose of tracking progress; and

''(ii) coordinating, managing, and reporting environmental data relating to Puget Sound in a manner consistent with methodologies used by the Puget Sound Partnership, including, to the maximum extent practicable, making such data and reports on such data available to the public, including on the Internet, in a timely manner; and

''(H) coordinate activities, projects, programs, and studies for the protection of Puget Sound, the Strait of Georgia, and the Strait of Juan de Fuca with Canadian authorities.

''(2) IMPLEMENTATION METHODS.—The Administrator, acting through the Regional Administrator, may enter into financial assistance agreements, make or facilitate intergovernmental personnel appointments, and use other available methods in carrying out the duties of the Administrator under this subsection.

''(d) ANNUAL PRIORITY LIST.—

''(1) IN GENERAL.—After providing public notice, the Puget Sound Partnership, in consultation with the Puget Sound Federal Caucus, shall annually compile a priority list identifying and prioritizing the activities, projects, programs, and studies intended to be funded during the succeeding fiscal year with the amounts made available for use in entering into financial assistance agreements under subsection (e).

''(2) INCLUSIONS.—The annual priority list compiled under paragraph (1) shall include—

''(A) a prioritized list of specific activities, projects, programs, and studies that will advance the goals and objectives of the approved comprehensive plan;

''(B) information on the activities, projects, programs, and studies specified under subparagraph (A), including a description of—

''(i) the terms of financial assistance agreements;

''(ii) the identities of the financial assistance recipients; and

''(iii) the communities to be served; and

''(C) the criteria and methods established by the Puget Sound Partnership for selection of activities, projects, programs, and studies.

''(3) APPROVAL OF LIST.—

''(A) SUBMISSION.—On August 1 of each calendar year, the Puget Sound Partnership shall submit the annual priority list compiled under paragraph (1) to the Administrator for approval.

''(B) APPROVAL.—The Administrator shall approve or disapprove a list submitted under subparagraph (A) or resubmitted under subparagraph (C) based on a determination of whether the activities, projects, programs, and studies listed advance the goals and objectives of the approved comprehensive plan.

''(C) EFFECT OF DISAPPROVAL.—If the Administrator disapproves a list submitted under subparagraph (A) or (C), the Administrator shall—

''(i) provide the Puget Sound Partnership, in writing, a notification of the basis for the disapproval; and

''(ii) allow the Puget Sound Partnership the opportunity for resubmission of a revised annual priority list that addresses, to the maximum extent practicable, the comments contained in the written disapproval of the Administrator described in clause (i).

''(D) FAILURE OF ADMINISTRATOR TO RESPOND.—If, by the date that is 60 days after the date of submission or resubmission to the Administrator of an annual priority list by the Puget Sound Partnership, the Administrator fails to respond to the submission or resubmission in writing, the annual priority list shall be considered to be approved.

''(4) FAILURE TO COMPILE LIST.—

''(A) IN GENERAL.—If, by the date that is 180 days after the annual date of submission specified in paragraph (3)(A), the Puget Sound Partnership fails to compile an annual priority list in accordance with paragraph (1) or secures only a written disapproval from the Administrator for a list submitted under subparagraph (A) or (C) of paragraph (3), the Administrator shall compile a priority list for the fiscal year that includes—

''(i) activities, projects, programs, or studies that advance the goals and objectives of the approved comprehensive plan;

''(ii) any identified activities, projects, programs, or studies from previously approved priority lists that have not yet been funded;

''(iii) a description of the activities, projects, programs, and studies described in clauses (i) and (ii), including—

''(I) the terms of financial assistance agreements;

''(II) the identities of the financial assistance recipients; and

''(III) the communities to be served; and

''(iv) the criteria and methods established by the Administrator for selection of activities, projects, programs, and studies.

''(B) APPROVAL.—A list compiled by the Administrator in accordance with subparagraph (A) shall be considered to be an approved annual priority list for the purposes of this section.

''(e) IMPLEMENTATION OF COMPREHENSIVE PLAN.—

''(1) IN GENERAL.—The Administrator, acting through the Regional Administrator, may enter into financial assistance agreements to support activities, projects, programs, and studies to implement the comprehensive plan.

''(2) FUNDING.—In providing funding under this subsection, the Administrator shall use—

''(A) such sums as necessary but not greater than 7.5 percent of the funds made available under this section to provide a comprehensive grant to the Puget Sound Partnership for use in—

''(i) tracking the implementation of the comprehensive plan;

''(ii) monitoring environmental outcomes;

''(iii) updating the comprehensive plan;

''(iv) developing the annual priority list; and

''(v) performing other administrative activities relating to the management and implementation of the comprehensive plan;

''(B) not more than 5 percent of the funds made available under this section to carry out the responsibilities of the Administrator under this section;

''(C) not less than the greater of $2,500,000 or 6 percent of the funds made available under this section to enter into financial assistance agreements with, Puget Sound tribes to carry out specific activities, projects, programs, or studies identified in the approved annual priority list; and

''(D) the remainder of the funds made available under this section to enter into financial assistance agreements for use in implementing specific activities, projects, programs, or studies identified in the approved annual priority list to—

''(i) State, regional, or local governmental agencies or entities;

''(ii) tribal governments, agencies, or entities;

''(iii) Federal agencies; or

''(iv) other public or nonprofit agencies, institutions, or organizations.

''(3) CONDITIONS FOR FUNDING.—

''(A) IN GENERAL.—An entity shall be eligible for funding under subparagraph (C) or (D) of paragraph (2) only if funds will be used for activities, projects, programs, or studies that are identified in an approved annual priority list.

''(B) MEASURABLE OUTCOMES, BENCHMARKS, TARGETS.—The Administrator shall enter into financial assistance agreements under paragraph (2) only if, in the judgment of the Administrator, the Puget Sound Partnership has defined and adopted the measurable outcomes, near-term benchmarks, and long-

term targets that are necessary to meet the goals and objectives of the comprehensive plan.

''(4) DISTRIBUTION.—

''(A) IN GENERAL.—Subject to the availability of appropriations, the Administrator shall obligate all funds made available under paragraph (2) by not later than 180 days after the date on which the annual priority list is approved in accordance with subsection (d).

''(B) MEANS OF DISTRIBUTION.—The Administrator shall enter into financial assistance agreements to carry out the activities, projects, programs, or studies in the order of priority identified on an approved annual priority list unless—

''(i) the identified financial assistance recipient fails to meet the requirements of the applicable financial assistance agreement; or

''(ii) the Administrator and Puget Sound Partnership agree, in writing, to deviate from the order specified in an approved priority list.

''(5) FAILURE TO DISTRIBUTE.—If all funds made available for use in entering into financial assistance agreements under paragraph (2) are not obligated by the date specified in paragraph (4), the Administrator shall promptly submit to the appropriate committees of the Senate and the House of Representatives a report that—

''(A) describes the reasons for the failure to obligate the funds; and

''(B) provides a date certain by which all funds will be distributed.

''(6) FEDERAL SHARE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the Federal share of the cost of an activity, project, program, or study carried out under this subsection shall be—

''(i) not more than 75 percent of the annual aggregate costs of the activities described in paragraph (2)(A); or

''(ii) not more than 50 percent of the cost of an activity project, program, or study funded under clause (i) or (iv) of paragraph (2)(D).

''(B) EXCEPTIONS.—

''(i) SOLE TRIBAL APPLICANT.—The Administrator shall increase the Federal share to 100 percent for any activity, project, program, or study carried out under this subsection for which a Puget Sound tribe is the sole applicant.

''(ii) DISTRESSED COMMUNITIES.—For each fiscal year, the Administrator may use up to 15 percent of the funds made available to carry out this section for that fiscal year to increase the Federal share up to 100 percent for an activity, project, program, or study funded under paragraph (2)(D) that is located in or directly affects a distressed community.

''(f) ANNUAL BUDGET PLAN.—The President, as part of the annual budget of the Federal Government, shall submit information regarding each Federal agency involved in Puget Sound protection and restoration, including—

''(1) an interagency crosscut budget that describes for each Federal agency—

''(A) amounts obligated for the preceding fiscal year for protection and restoration activities, projects, programs, and studies relating to Puget Sound;

''(B) the estimated budget for the current fiscal year for protection and restoration activities, projects, programs, and studies relating to Puget Sound; and

''(C) the proposed budget for protection and restoration activities, projects, programs, and studies relating to Puget Sound; and

''(2) a description and assessment of the Federal role in the implementation of the comprehensive plan and the specific role of each Federal agency involved in Puget Sound protection and restoration, including specific activities, projects, programs, and studies conducted or planned to achieve the identified goals and objectives of the comprehensive plan.

''(g) REPORT.—Not later than 1 year after the date of enactment of this section and biennially thereafter, the Administrator and the Executive Director of the Puget Sound Partnership shall jointly submit to Congress a report that—

''(1) summarizes the progress made in implementing the comprehensive plan and progress toward achieving—

''(A) the identified goals and objectives described in the comprehensive plan; and

''(B) the measurable outcomes, near-term benchmarks, and long-term targets required under subsection (e)(3)(B);

''(2) summarizes any modifications to the comprehensive plan during the period covered by the report;

''(3) incorporates specific recommendations concerning the implementation of the comprehensive plan;

''(4) summarizes the roles and progress of each Federal agency that has jurisdiction in the Puget Sound watershed toward meeting the identified goals and objectives of the comprehensive plan; and

''(5) includes any other information determined to be relevant by the Administrator or the Executive Director.

''(h) NO EFFECT ON TREATY RIGHTS OR EXISTING AUTHORITY.—Nothing in this section—

''(1) limits, conditions, abrogates, authorizes regulation of, or in any way adversely affects a right reserved by a treaty between the United States and 1 or more Indian tribes; or

''(2) affects any other Federal or State authority that is being used or that may be used to facilitate the cleanup and protection of Puget Sound.

''(i) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There is authorized to be appropriated to the Administrator to carry out this section $90,000,000 for each of fiscal years 2012 through 2016, to remain available until expended.

''(2) ELIGIBILITY.—The Puget Sound Partnership shall not receive any funding pursuant to section 320 for any fiscal year in which the Puget Sound Partnership receives funding under subsection (e)(2)(A).''.

Subtitle E—Columbia River Basin Restoration

SEC. 10241. SHORT TITLE.

This subtitle may be cited as the ''Columbia River Basin Restoration Act of 2010''.

SEC. 10242. FINDINGS.

Congress finds that—

(1) the Columbia River is the largest river in the Pacific Northwest by volume;

(2) the river is 1,253 miles long, with a drainage basin that includes 259,000 square miles, extending to 7 States and British Columbia, Canada, and including all or part of—

(A) multiple national parks;

(B) components of the National Wilderness Preservation System;

(C) National Monuments;

(D) National Scenic Areas;

(E) National Recreation Areas; and

(F) other areas managed for conservation.

(3) the Columbia River Basin and associated tributaries (referred to in this subtitle as the ''Basin'') provide significant ecological and economic benefits to the Pacific Northwest and the entire United States;

(4) traditionally, the Basin includes more than 6,000,000 acres of irrigated agricultural land and produces more hydroelectric power than any other North American river;

(5) the Basin—

(A) historically constituted the largest salmon-producing river system in the world, with annual returns peaking at as many as 30,000,000 fish; and

(B) as of the date of enactment of this Act—

(i) supports economically important commercial and recreational fisheries; and

(ii) is home to 13 species of salmonids and steelhead that area listed as threatened species or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(6) the Lower Columbia River Estuary stretches 146 miles from the Bonneville Dam to the mouth of the Pacific Ocean, and much of that area is contaminated with toxic chemicals;

(7) the Middle and Upper Columbia River Basin includes 1,050 miles of the mainstem Columbia River upstream of the Bonneville Dam, including the 1,040 miles of the largest tributary, the Snake River, and all of the tributaries to both rivers;

(8) the nuclear and toxic contamination at the Hanford Nuclear Reservation and the toxic contamination at Superfund sites throughout the Basin present an ongoing risk of contamination throughout the Basin;

(9) polychlorinated biphenyls (commonly known as ''PCBs'') and polycyclic aromatic hydrocarbons that have been found in the tissues of salmonids and their prey at concentrations exceeding levels of concern;

(10) legacy contaminants, including PCBs and dichlorodiphenyltrichloroethane, the pesticide commonly known as ''DDT'', were banned in 1972, but are still detected in river water, sediments, and juvenile Chinook salmon;

(11) pesticides and emerging contaminants, such as pharmaceutical and personal care products, have been detected in river water and may have effects including hormone disruption and impacts on behavior and reproduction;

(12) the Environmental Protection Agency's Columbia River Basin Fish Contaminant Survey detected the presence of 92 priority pollutants, including PCBs and DDE (a breakdown of DDT), in fish that are consumed by members of Indian tribes in the Columbia River Basin, as well as by other individuals consuming fish throughout the Columbia River Basin, and a fish consumption survey by the Columbia River Intertribal Fish Commission showed that tribal members were eating 6 to 11 times more fish than the estimated national average of the Environmental Protection Agency; and

(13) with regard to the Flathead River Basin, in the easternmost portion of the Columbia River Basin—

(A) the Flathead River Basin—

(i) has high water quality and aquatic biodiversity;

(ii) supports endangered species and species of special concern listed under United States and Canadian law;

(iii) contains Flathead Lake, the largest freshwater lake in the western United States;

(iv) is an important wildlife corridor that is home to the highest density of large and mid-sized carnivores and the highest diversity of vascular plant species in the United States; and

(v) supports traditional uses such as hunting, fishing, recreation, guiding and outfitting, and logging;

(B) the Flathead River originates in British Columbia and drains into the State of Montana;

(C) such transboundary waters are protected from pollution under the Treaty Relating to the Boundary Waters and Questions Arising Along the Boundary Between the United States and Canada, signed at Washington on January 11, 1909 (36 Stat. 2448; TS

548) (commonly known as the ''Boundary Waters Treaty of 1909'');

(D) in 1988, the International Joint Commission determined that the impacts of mining proposals on the environmental values of the Flathead River Basin, including on water quality, sport fish populations, and habitat, could not be fully mitigated;

(E) the Flathead River forms the western and southern boundaries of the world's first International Peace Park, Waterton–Glacier, which was inscribed as a World Heritage Site in 1995 under the auspices of the World Heritage Convention, adopted by the United Nations Educational, Scientific, and Cultural Organization General Conference on November 16, 1972;

(F) at the 33rd session of the World Heritage Committee in 2009, Decision 33 COM 7B.22 (Annex 3) 2009, the World Heritage Committee urged Canada in 2009 not to permit any mining or energy development in the Upper Flathead River Basin until the relevant environmental assessment processes have been completed and to provide timely opportunities for the United States to participate in environmental assessment processes; and

(G) on February 18, 2010, British Columbia and the State of Montana entered into a memorandum of understanding—

(i) to remove mining and oil and gas development as permissible land uses in the Flathead River Basin;

(ii) to cooperate on fish and wildlife management;

(iii) to collaborate on environmental assessment of projects of cross border significance with the potential to degrade land or water resources; and

(iv) to share information proactively.

SEC. 10243. COLUMBIA RIVER BASIN RESTORATION.

Title I of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) (as amended by section 10231) is amended by adding at the end the following:

''SEC. 125. COLUMBIA RIVER BASIN RESTORATION.

''(a) DEFINITIONS.—

''(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Environmental Protection Agency.

''(2) COLUMBIA RIVER BASIN.—The term 'Columbia River Basin' means the entire United States portion of the Columbia River watershed.

''(3) COLUMBIA RIVER BASIN PROVINCES.—The term 'Columbia River Basin Provinces' means the United States portion of each of the Columbia River Basin Provinces identified in the Fish and Wildlife Plan of the Northwest Power and Conservation Council.

''(4) COLUMBIA RIVER BASIN TOXICS REDUCTION ACTION PLAN.—

''(A) IN GENERAL.—The term 'Columbia River Basin Toxics Reduction Action Plan' means the plan developed by the Environmental Protection Agency and the Columbia River Toxics Reduction Working Group in 2010.

''(B) INCLUSIONS.—The term 'Columbia River Basin Toxics Reduction Action Plan' includes any amendments to the plan.

''(5) ESTUARY PARTNERSHIP.—The term 'Estuary Partnership' means the Lower Columbia River Estuary Partnership, an entity created by the States of Oregon and Washington and the Environmental Protection Agency under section 320.

''(6) ESTUARY PLAN.—

''(A) IN GENERAL.—The term 'Estuary Plan' means the Estuary Partnership Comprehensive Conservation and Management Plan adopted by the Environmental Protection Agency and the Governors of Oregon and Washington on October 20, 1999, under section 320.

''(B) INCLUSIONS.—The term 'Estuary Plan' includes any amendments to the plan.

''(7) LOWER COLUMBIA RIVER ESTUARY.—The term 'Lower Columbia River Basin and Estuary' means the mainstem Columbia River from the Bonneville Dam to the Pacific Ocean and tidally influenced portions of tributaries to the Columbia River in that region.

''(8) MIDDLE AND UPPER COLUMBIA RIVER BASIN.—

''(A) IN GENERAL.—The term 'Middle and Upper Columbia River Basin' means the region consisting of the United States portion of the Columbia River Basin above Bonneville Dam.

''(B) INCLUSIONS.—The term 'Middle and Upper Columbia River Basin' includes—

''(i) the Snake River and associated tributaries; and

''(ii) the Clark Fork and Pend Oreille Rivers and associated tributaries.

''(9) NORTH FORK OF THE FLATHEAD RIVER.—The term 'North Fork of the Flathead River' means the region consisting of the North Fork of the Flathead River watershed, beginning in British Columbia, Canada, ending at the confluence of the North Fork and the Middle Fork of the Flathead River in the State of Montana.

''(10) PROGRAM.—The term 'Program' means the Columbia River Basin Restoration Program established under subsection (b)(1).

''(11) TRANSBOUNDARY FLATHEAD RIVER BASIN.—The term 'transboundary Flathead River Basin' means the region consisting of the Flathead River watershed, beginning in British Columbia, Canada, and ending at Flathead Lake, Montana.

''(12) WORKING GROUP.—The term 'Working Group' means—

''(A) the Columbia River Basin Toxics Reduction Working Group established under subsection (c); and

''(B) with respect to the Lower Columbia River Estuary, the Estuary Partnership.

''(b) COLUMBIA RIVER BASIN RESTORATION PROGRAM.—

''(1) ESTABLISHMENT.—The Administrator shall establish within the Environmental Protection Agency a Columbia Basin Restoration Program.

''(2) SCOPE OF PROGRAM.—

''(A) IN GENERAL.—The Program shall consist of a collaborative stakeholder-based approach to planning and implementing voluntary activities to reduce toxic contamination throughout the Columbia River Basin.

''(B) RELATIONSHIP TO EXISTING ACTIVITIES.—The Program shall—

''(i) build on the work and collaborative structure of the existing Columbia River Toxics Reduction Working Group representing the Federal Government, State, tribal, and local governments, industry, and nongovernmental organizations, which was convened in 2005 to develop a collaborative toxic contamination reduction approach for the Columbia River Basin;

''(ii) in the Lower Columbia River Basin and Estuary, build on the work and collaborative structure of the Estuary Partnership; and

''(iii) coordinate with other efforts, including activities of other Federal agencies in the Columbia River Basin, to avoid duplicating activities or functions.

''(C) NO EFFECT ON EXISTING AUTHORITY.—Nothing in this section, including the establishment of the Program modifies or affects any legal or regulatory authority or program in effect as of the date of enactment of this section, including—

''(i) the roles of Federal agencies in the Columbia River Basin;

''(ii) the roles of States in the Columbia River Basin, including State authority over water allocation under section 101(g);

''(iii) the Snake River Water Rights Act of 2004 (Public Law 108-447; 118 Stat. 3431); or

''(iv) any other Federal or State authority that is being used or may be used to facilitate the cleanup and protection of the Columbia River Basin.

''(3) DUTIES.—The Administrator shall—

''(A) provide the Working Group with data, analysis, reports, or other information;

''(B) provide technical assistance to the Working Group, and to States, local government entities, and Indian tribes participating in the Working Group, to assist those agencies and entities in—

''(i) planning or evaluating potential projects;

''(ii) developing the annual priority list;

''(iii) implementing plans;

''(iv) implementing projects; and

''(v) monitoring and evaluating the effectiveness of projects and the implementation of plans and projects;

''(C) provide information to the Working Group on plans already developed by the Administrator or by other Federal agencies to enable the Working Group to avoid unnecessary or duplicative projects or activities;

''(D) provide coordination with other Federal agencies to avoid duplication of activities or functions;

''(E) assist the Working Group with—

''(i) completing and periodically updating the Columbia River Basin Toxics Reduction Action Plan and the Estuary Plan; and

''(ii) ensuring that those plans, when considered together and in light of relevant plans developed by other Federal or State agencies, form a coherent toxic contamination reduction strategy for the entire Columbia River Basin; and

''(F) implement, including by providing funding pursuant to subsection (e), projects and activities, including monitoring and assessment, that—

''(i) are identified by the Working Group in the annual priority list; and

''(ii)(I) are included in the Columbia River Basin Toxics Reduction Action Plan and the Estuary Plan; or

''(II) are identified under subsection (d) and located in the Transboundary Flathead River Basin.

''(4) IMPLEMENTATION METHODS.—The Administrator may enter into interagency agreements, make or facilitate intergovernmental personnel appointments, provide funding, and use other available methods in carrying out the duties of the Administrator under this subsection.

''(c) STAKEHOLDER WORKING GROUP.—

''(1) ESTABLISHMENT.—The Administrator shall establish a Columbia River Basin Toxics Reduction Working Group.

''(2) MEMBERSHIP.—The members of the Working Group shall include, at a minimum, representatives of—

''(A) each State located in whole or in part within the Columbia River Basin;

''(B) each Indian tribe with legally defined rights and authorities in the Columbia River Basin that elects to participate on the Working Group;

''(C) local governments located in the Columbia River Basin;

''(D) industries operating in the Columbia River Basin that affect or could affect water quality;

''(E) electric, water, and wastewater utilities operating in the Columba River Basin;

''(F) private landowners in the Columbia River Basin;

''(G) soil and water conservation districts in the Columbia River Basin;

''(H) irrigation districts in the Columbia River Basin;

''(I) environmental organizations that have a presence in the Columbia River Basin; and

''(J) the general public in the Columbia River Basin.

''(3) GEOGRAPHIC REPRESENTATION.—The Working Group shall include representation from each of the Columbia River Basin Provinces located in the Columbia River Basin.

''(4) APPOINTMENT.—

''(A) NONTRIBAL MEMBERS.—The Administrator, with the consent of the Governor of each State located in whole or in part within the Columbia River Basin, shall appoint nontribal members of the Working Group not later than 180 days after the date of enactment of this section.

''(B) TRIBAL MEMBERS.—The governing body of each Indian tribe described in paragraph (2)(B) shall appoint tribal members of the Working Group not later than 180 days after the date of enactment of this section.

''(5) DUTIES.—The Working Group shall—

''(A) assess trends in water quality and toxic contamination or toxics reduction, including trends that affect uses of the water of the Columbia River Basin;

''(B) collect, characterize, and assess data on toxic contamination in the Columbia River Basin;

''(C) develop periodic updates to the Columbia River Basin Toxics Reduction Action Plan and, in the Estuary, the Estuary Plan;

''(D) submit to the Administrator annually a prioritized list of projects, including monitoring, assessment, and toxic contamination reduction projects, that would implement the Columbia River Basin Toxics Reduction Action Plan or, in the Lower Columbia River Estuary, the Estuary Plan, for funding pursuant to subsection (e); and

''(E) monitor the effectiveness of actions taken pursuant to this section.

''(6) LOWER COLUMBIA RIVER ESTUARY.—In the Lower Columbia River Estuary, the Estuary Partnership shall function as the Working Group and execute the duties of the Working Group described in this subsection for such time as the Estuary Partnership is the management conference for the Lower Columbia River National Estuary Program.

''(7) PARTICIPATION BY STATES.—At the discretion of the Governor of a State, the State—

''(A) may elect not to participate in the Working Group established under this paragraph; and

''(B) may provide comments to the Administrator on the prioritized list of projects submitted pursuant to paragraph (5)(D).

''(d) TRANSBOUNDARY FLATHEAD RIVER BASIN.—

''(1) SHORT TITLE.—This subsection may be cited as the 'Transboundary Flathead River Basin Protection Act of 2010'.

''(2) ACTION BY PRESIDENT.—The President shall take steps to preserve and protect the unique, pristine area of the transboundary Flathead River Basin, with a particular focus on the North Fork of the Flathead River.

''(3) TRANSBOUNDARY COOPERATION.—In taking such steps, the President shall engage in negotiations with the Government of Canada to establish an executive agreement, or other appropriate tool, to ensure permanent protection for the North Fork of the Flathead River watershed and the adjacent area of Glacier-Waterton National Park.

''(4) PARTICIPATION IN COOPERATIVE EFFORTS.—

''(A) IN GENERAL.—The President may participate in cross-border collaborations with Canada on environmental assessments of any project of cross-border significance that has the potential to degrade land or water resources by providing for on-going involvement of appropriate Federal agencies of the United States in such assessments.

''(B) COLLABORATION.—In carrying out subparagraph (A), the President shall include in collaborations under that subparagraph appropriate Federal agencies, such as—

''(i) the Environmental Protection Agency;

''(ii) the Department of the Interior;

''(iii) the United States Fish and Wildlife Service;

''(iv) the National Park Service;

''(v) the Forest Service; and

''(vi) such other agencies as the President determines to be appropriate.

''(5) ASSESSMENTS AND PROJECTS.—The President, acting through the Administrator, may provide grants under subsection (e) for the following purposes:

''(A) Developing baseline environmental conditions in the transboundary Flathead River Basin.

''(B) Assessing the impact of any proposed projects on the natural resources, water quality, wildlife, or environmental conditions in the transboundary Flathead River Basin.

''(C) Implementation of transboundary cooperative efforts identified by the governments of the United States and Canada under this subsection.

''(D) Projects to protect and preserve the natural resources, water quality, wildlife, and environmental conditions in the transboundary Flathead River Basin.

''(e) FUNDING.—

''(1) IN GENERAL.—The Administrator may provide funding through cooperative agreements, grants, or other means to State and regional water pollution control agencies and entities, other State and local government entities, Indian tribes, nonprofit private agencies, institutions, organizations, and individuals for use in paying costs incurred in carrying out activities—

''(A) that would advance the goals and objectives of the Columbia River Basin Toxics Reduction Action Plan or the Estuary Plan; or

''(B) relating to the cooperative efforts described in subsection (d)(4).

''(2) FEDERAL SHARE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the Federal share of the cost of any project or activity carried out using funds provided to any person (including a State, interstate, or regional agency, an Indian tribe, or a local government entity) under this subsection for a fiscal year—

''(i) shall not exceed 75 percent of the total cost of the project or activity; and

''(ii) shall be made on condition that the non-Federal share of that total cost shall be provided from non-Federal sources.

''(B) EXCEPTIONS.—With respect to cost-sharing for funding provided under this subsection—

''(i) an Indian tribe may use Federal funds for the non-Federal share; and

''(ii) the Administrator may use up to 10 percent of the funds made available to carry out this section to increase the Federal share under such circumstances as the Administrator determines to be appropriate.

''(C) IN-KIND CONTRIBUTIONS.—The non-Federal share of the cost of an activity, project, program, or study carried out under this section may include the value of any in-kind services contributed by a non-Federal sponsor.

''(3) ALLOCATION.—In making grants using funds appropriated to carry out this section for fiscal years 2012 and 2013, the Administrator shall use—

''(A) not less than ⅓ of the funds for projects, programs, and studies in the Lower Columbia River Estuary; and

''(B) not less than ⅓ of the funds for projects, programs, and studies in the Middle and Upper Columbia River Basin.

''(4) SUPPORT OF GOVERNORS.—In reviewing requests for funding pursuant to this section, the Administrator may not consider any proposal for funding unless the Governor of the State in which the activity would take place has expressed support for the activity as proposed.

''(5) REPORTING.—Not later than 18 months after the date of receipt of funding under this subsection, and biennially thereafter for the duration of the funding, a person (including a State, interstate, or regional agency, an Indian tribe, or a local government entity) that receives funding under this subsection shall submit to the Administrator a report that describes the progress being made in achieving the purposes of this section using those funds.

''(f) ANNUAL BUDGET PLAN.—The President, as part of the annual budget submission of the President to Congress under section 1105(a) of title 31, United States Code, shall submit information regarding each Federal agency involved in protection and restoration of the Columbia River Basin, including an interagency crosscut budget that displays for each Federal agency—

''(1) the amounts obligated for the preceding fiscal year for protection and restoration projects, programs, and studies relating to the Columbia River Basin;

''(2) the estimated budget for the current fiscal year for protection and restoration projects, programs, and studies relating to the Columbia River Basin; and

''(3) the proposed budget for protection and restoration projects, programs, and studies relating to the Columbia River Basin.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator to carry out this section $33,000,000 for each of fiscal years 2012 through 2017, to remain available until expended.''.

Subtitle F—Great Lakes Ecosystem Protection

SEC. 10251. SHORT TITLE.

This Act may be cited as the ''Great Lakes Ecosystem Protection Act of 2010''.

SEC. 10252. GREAT LAKES PROVISION MODIFICATIONS.

(a) FINDINGS; PURPOSE.—Section 118(a) of the Federal Water Pollution Control Act (33 U.S.C. 1268(a)) is amended—

(1) in paragraph (1)—

(A) by redesignating subparagraph (C) as subparagraph (D);

(B) by striking subparagraph (B) and inserting the following:

''(B) the United States should seek to attain the goals embodied and identified in the Great Lakes Regional Collaboration Strategy, the Great Lakes Restoration Initiative Action Plan, and the Great Lakes Water Quality Agreement;

''(C) in order to restore and maintain water quality in the Great Lakes basin, focus areas for restoration and protection identified in the Great Lakes Regional Collaboration Strategy and the Great Lakes Restoration Initiative Action Plan must be addressed, such as—

''(i) the remediation of toxic substances;

''(ii) the prevention of invasive species and the mitigation of the impacts of the invasive species and the restoration areas impacted by invasive species;

''(iii) the protection and restoration of nearshore health and water quality;

''(iv) the prevention of nonpoint source water pollution;

''(v) habitat and wildlife protection and restoration; and

''(vi) accountability, education, monitoring, evaluation, communication, and partnership activities; and''; and

(C) in subparagraph (D) (as redesignated by subparagraph (A)) by inserting '', tribal,'' after ''State'';

(2) by striking paragraph (2) and inserting the following:

''(2) PURPOSE.—The purpose of this section is to achieve the goals embodied and identified in the Great Lakes Regional Collaboration Strategy, the Great Lakes Restoration Initiative Action Plan, and the Great Lakes Water Quality Agreement—

''(A) by restoring and maintaining the chemical, physical, and biological integrity of the Great Lakes basin ecosystem; and

''(B) through—

''(i) the creation of a Great Lakes Collaboration Partnership;

''(ii) the improved organization and definition of mission on the part of the Environmental Protection Agency;

''(iii) the funding of grants, contracts, and interagency agreements for protection, restoration, and pollution prevention and control in the Great Lakes area; and

''(C) by implementing improved and transparent accountability mechanisms.''; and

(3) in paragraph (3)—

(A) by striking subparagraph (H) and inserting the following:

''(H) 'Great Lakes Water Quality Agreement' means the bilateral 'Agreement on Great Lakes water quality, 1978' between the United States and Canada, signed at Ottawa on November 22, 1978 (30 UST 1383; TIAS 9257), and amended October 16, 1983 (TIAS 10798) and November 18, 1987 (TIAS 11551) (including any subsequent revisions);'';

(B) in subparagraph (K), by striking ''and'' after the semicolon;

(C) in subparagraph (L), by striking the period at the end and inserting a semicolon; and

(D) by adding at the end the following:

''(M) 'Action Plan' means the Great Lakes Restoration Initiative Action Plan, signed on February 21, 2010;

''(N) 'Blueprint' means—

''(i) the Great Lakes Restoration Blueprint, a strategy for restoring and protecting water quality in, and the ecosystem of, the Great Lakes basin adopted by the Great Lakes Collaboration Partnership in accordance with this section; and

''(ii) any future amendments or revisions to that strategy;

''(O) 'Great Lakes Regional Collaboration Strategy' means the Great Lakes Regional Collaboration Strategy to Protect and Restore the Lakes, signed on December 12, 2005; and

''(P) 'Needs-based applicant' means a public or nonprofit entity that meets the economic and affordability criteria established by the Administrator in consultation with the Program Office and Great Lakes Leadership Council.''.

(b) GREAT LAKES MANAGEMENT.—Section 118(c) of the Federal Water Pollution Control Act (33 U.S.C. 1268(c)) is amended—

(1) by redesignating paragraphs (1) through (13) as (2) through (14), respectively; and

(2) by inserting before paragraph (2) (as redesignated by paragraph (1)) the following:

''(1) IN GENERAL.—The Administrator, or a designee of the Administrator, shall—

''(A) coordinate and manage all Federal agency actions to implement the Action Plan, the Blueprint, and the Great Lakes Water Quality Agreement; and

''(B) review and approve—

''(i) the annual priority list to determine whether the proposed activities will advance the goals of the Action Plan and the Blueprint; and

''(ii) on an annual basis, the Federal agency actions taken to implement the approved annual priority list.'';

(3) in paragraph (2) (as redesignated by paragraph (1))—

(A) in subparagraph (A), by striking ''.;'' and inserting a semicolon;

(B) by redesignating subparagraphs (C), (D), and (E) as subparagraphs (F), (G), and (H), respectively; and

(C) by inserting after subparagraph (B) the following:

''(C) provide the support described in paragraph (7);

''(D) provide support to the Great Lakes Interagency Task Force, as required under paragraph (9);

''(E) in consultation with the members of the Great Lakes Regional Collaboration Partnership, be responsible for the creation, updating, and, as necessary, revision of accountability measures, including focus area goals and performance targets and measures;'';

(4) in subparagraphs (B) and (C) of paragraph (4) (as redesignated by paragraph (1)), by striking ''subparagraph (c)(1)(C) of this section'' and inserting ''paragraph (2)(F)'';

(5) by striking paragraph (7) (as redesignated by paragraph (1)) and inserting the following:

''(7) GREAT LAKES GOVERNANCE AND MANAGEMENT.—

''(A) GREAT LAKES LEADERSHIP COUNCIL.—

''(i) ESTABLISHMENT.—There is established a council, to be known as the Great Lakes Leadership Council (referred to in this paragraph as the 'Council').

''(ii) DUTIES.—The Council shall—

''(I) in consultation with the Administrator, compile an annual priority list that identifies and prioritizes activities intended to be funded with amounts made available under this subsection during the succeeding fiscal year;

''(II) not later than 1 year after the date of establishment of the Council and on an annual basis thereafter—

''(aa) review and report on progress in meeting the goals and objectives of the Action Plan or the Blueprint;

''(bb) assess the implementation of the Administrator of the most recently approved annual priority list; and

''(cc) make recommendations regarding other relevant Great Lakes issues; and

''(III) make recommendations to the Administrator and the Secretary of State regarding—

''(aa) a process for participating in relevant international fora, such as the Great Lakes Water Quality Agreement; and

''(bb) whether any existing advisory or coordinating bodies are duplicative and should be replaced or eliminated.

''(iii) MEMBERSHIP.—

''(I) VOTING MEMBERS.—The membership of the Council shall include as voting members—

''(aa) the governors of the Great Lake States;

''(bb) up to 8 representatives of tribal governments, to be appointed after direct government-to-government consultation between the Program Office and all Great Lakes tribes—

''(AA) by the Indian tribes located in the Great Lakes basin in the United States; and

''(BB) to the maximum extent practicable, in a manner that ensures that the tribal governments are geographically representative of the Great Lakes basin; and

''(cc) up to 8 mayors, to be appointed by the mayors of areas located in the Great Lakes basin in the United States—

''(AA) in accordance with such procedures and criteria as the Administrator may establish; and

''(BB) to the maximum extent practicable, in a manner that ensures that the mayors are geographically representative of the Great Lakes basin.

''(II) NONVOTING MEMBERS.—The membership of the Council shall include as nonvoting members—

''(aa) 1 member who shall be appointed by the Great Lakes Commission;

''(bb) 1 member who shall be appointed by the International Joint Commission;

''(cc) 1 member who shall be appointed by the Great Lakes Fishery Commission;

''(dd) 1 member who shall be a representative of the environmental community in the Great Lakes, to be appointed by the Administrator, after soliciting advice from that community;

''(ee) 1 member who shall be a representative of the agricultural community, to be appointed by the Administrator, after soliciting advice from that community;

''(ff) 1 member who shall be a representative of the Great Lakes business community, to be appointed by the Administrator, after soliciting advice from that community;

''(gg) 1 member who shall be a representative of the scientific community, to be appointed by the Administrator, after soliciting advice from that community; and

''(hh) 1 member who shall be a representative of Canada, as an observer member.

''(III) CHAIRPERSON.—The chairperson of the Council shall rotate on a biennial basis among the Governors of the Great Lakes States.

''(IV) SECRETARY.—The chairperson shall designate a secretary to provide administrative support to the Council.

''(iv) COMMITTEES.—The Council may establish such committees as the Council determines to be appropriate to address concerns of the Council, including—

''(I) executive issues;

''(II) scientific issues;

''(III) implementation issues; and

''(IV) funding issues.

''(v) COUNCIL MEETINGS.—

''(I) IN GENERAL.—The Council shall meet not less frequently than once each year.

''(II) OPEN TO PUBLIC.—The meetings of the Council shall be open to the public.

''(vi) COMMITTEE MEETINGS.—A committee established by the Council under clause (iv) may meet as frequently as necessary to provide support to the Council.'';

(6) by striking paragraph (8) (as redesignated by paragraph (1)) and inserting the following:

''(8) GREAT LAKES COLLABORATION PARTNERSHIP.—

''(A) ESTABLISHMENT.—

''(i) IN GENERAL.—There is established a partnership, to be known as the Great Lakes Collaboration Partnership (referred to in this paragraph as the 'Partnership') that shall consist of the Great Lakes Leadership Council and the Great Lakes Interagency Task Force.

''(ii) PURPOSE.—The purpose of the Partnership is to facilitate the creation of a Blueprint under subparagraph (B) that is consistent with the requirements of this paragraph.

''(B) GREAT LAKES RESTORATION BLUEPRINT.—

''(i) IN GENERAL.—

''(I) CONTENTS.—The Blueprint developed by the Partnership shall describe—

''(aa) a strategy for restoring and protecting water quality in, and the ecosystem of, the Great Lakes Basin; and

''(bb) focus and policy areas for achieving the strategy, as well as measurable outcomes and performance targets for achieving the strategy.

''(II) CONSULTATION.—The strategy outlined in the Blueprint shall be achieved through—

''(aa) cooperation among relevant Federal agencies; and

''(bb) consultation and coordination with applicable States, Indian tribes, local governments, institutions of higher education, nongovernmental organizations, and other

stakeholders in the Great Lakes basin, as well as representatives of Canada.

''(III) USE OF EXISTING PLANS AND AGREEMENTS.—In developing the Blueprint, the Partnership shall, to the maximum extent practicable, build on existing plans or agreements, such as the Great Lakes Regional Collaboration Strategy, Great Lakes Restoration Initiative Action Plan, and the Great Lakes Water Quality Agreement.

''(ii) FEDERAL SHARE.—

''(I) IN GENERAL.—Except as provided in subclauses (II) and (III) and subsection (c)(13)(E)(i), the Federal share of the cost of an activity, project, program, or study carried out with funds made available under this section shall be not more than 75 percent of the cost of an activity, project, program, or study.

''(II) EXISTING FEDERAL SHARE.—If the Federal share of the cost of an activity, project, program, or study described in subclause (I) is specified in another provision of Federal law in effect as of the date of enactment of the America's Great Outdoors Act of 2010, the Federal share specified in the other provision shall apply to the activity, project, program, or study.

''(III) NEEDS-BASED APPLICANTS.—For each fiscal year, the Administrator may use up to 10 percent of the funds made available to carry out this section for the fiscal year to increase the Federal share up to 100 percent for a needs-based applicant.

''(iii) REVISION OF THE BLUEPRINT.—Not later than 5 years after the date of enactment of the America's Great Outdoors Act of 2010, and every 5 years thereafter, the Partnership shall review and update the Blueprint.

''(iv) TRANSITION.—In the first fiscal year after the date of adoption of the Blueprint by the Partnership—

''(I) the Blueprint shall replace the Action Plan as the guiding document for Federal investment in Great Lakes protection and restoration; and

''(II) the Great Lakes Leadership Council shall use the Blueprint to develop the annual priority list under subparagraph (C).

''(v) OPERATION.—In creating, modifying, or revising of the Blueprint, the Partnership shall consult with and achieve a consensus on the Blueprint with the Great Lakes Interagency Task Force and the voting members of the Great Lakes Leadership Council.

''(C) ANNUAL PRIORITY LIST.—

''(i) IN GENERAL.—After providing public notice, the Great Lakes Leadership Council shall annually compile a priority list that identifies and prioritizes the activities intended to be funded with amounts made available under this subsection during the succeeding fiscal year.

''(ii) LIST COMPONENTS.—The list compiled under clause (i) shall include—

''(I) a prioritized list of specific activities that will advance the goals and objectives of the Action Plan or Blueprint; and

''(II) the criteria and methods established by the Great Lakes Leadership Council for selecting activities, projects, programs, and studies for grants, contracts, and interagency agreements under this subsection.

''(iii) APPROVAL OF LIST.—

''(I) SUBMISSION.—On July 1 of each calendar year, the Great Lakes Leadership Council shall submit the annual priority list compiled under clause (ii) to the Administrator for approval.

''(II) APPROVAL.—The Administrator shall approve or disapprove a list submitted under subclause (I) or resubmitted under subclause (III) based on a determination of whether the activities specified in the list will advance the goals and objectives of the Action Plan or Blueprint.

''(III) EFFECTS OF DISAPPROVAL.—If the Administrator disapproves a list submitted under subclause (I) or (III), the Administrator shall—

''(aa) provide the Great Lakes Leadership Council, in writing, a notification of, and basis for, the disapproval; and

''(bb) allow the Great Lakes Leadership Council the opportunity for resubmission of a revised annual priority list that addresses, to the maximum extent practicable, the comments contained in the written disapproval of the Administrator.

''(IV) FAILURE OF ADMINISTRATOR TO RESPOND.—If, by the date that is 60 days after the date of submission or resubmission to the Administrator of an annual priority list by the Great Lakes Leadership Council, the Administrator fails to respond to the submission or resubmission in writing, the annual priority list shall be considered to be approved.

''(iv) FAILURE TO COMPILE LIST.—

''(I) IN GENERAL.—If, by the date that is 120 days after the annual date of submission specified in clause (iii)(I), the Great Lakes Leadership Council fails to compile an annual priority list in accordance with clause (i) or secures only a written disapproval from the Administrator for a list submitted under subclauses (I) or (III) of clause (iii), the Administrator shall compile a priority list for the fiscal year that includes—

''(aa) a specification, in order of priority, of activities that will assist in meeting the goals and objectives of the Action Plan or Blueprint;

''(bb) the criteria and methods for selecting activities for grants, contracts, and interagency agreements under this subsection; and

''(cc) any activities from previous lists compiled under clause (i) and approved under clause (iii) that have not yet been funded.

''(II) APPROVAL.—A list compiled by the Administrator in accordance with subclause (I) shall be considered to be an approved annual priority list for the purposes of this section.

''(D) TRANSFER OF FUNDS.—Of amounts made available to carry out this section, the Administrator may—

''(i) transfer not more than $475,000,000 to the head of any Federal department or agency, with the concurrence of the department or agency head, to carry out activities to support the Action Plan, the Blueprint, or the Great Lakes Water Quality Agreement;

''(ii) enter into an interagency agreement with the head of any Federal department or agency to carry out activities described in the annual priority list; and

''(iii) make grants to and enter into cooperative agreements with governmental entities, nonprofit organizations, institutions, and educational institutions to carry out planning, research, monitoring, outreach, training, studies, surveys, investigations, experiments, demonstration projects, and implementation relating to the activities described in the annual priority list.

''(E) SCOPE.—

''(i) IN GENERAL.—The scope of activities carried out pursuant to this section shall be, to the maximum extent practicable, geographically diverse, and include—

''(I) local activities;

''(II) Great Lakes-wide activities; and

''(III) Great Lakes basin activities.

''(ii) LIMITATION.—No amounts made available to carry out this section may be used for any water infrastructure activity (other than a green infrastructure project) for which amounts are made available from—

''(I) a State water pollution control revolving fund established under title VI; or

''(II) a State drinking water revolving loan fund established under section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j–12).

''(F) ACTIVITIES BY OTHER FEDERAL AGENCIES.—Each relevant Federal department and agency shall, to the maximum extent practicable—

''(i) maintain the base level of funding for the Great Lakes activities of the agency; and

''(ii) on an annual basis, identify for the Great Lakes Leadership Council new activities for upcoming fiscal years to support the environmental goals of the Action Plan or the Blueprint for inclusion on the annual priority list.

''(G) FUNDING.—

''(i) AUTHORIZATION OF APPROPRIATIONS.—

''(I) IN GENERAL.—Subject to subclause (II), there is authorized to be appropriated to carry out this section $475,000,000 for each of fiscal years 2012 through 2017.

''(II) COUNCIL FUNDS.—For each of fiscal years 2012 through 2017, out of any amounts made available to the Administrator under subclause (I), not more than $1,000,000 shall be provided to the Great Lakes Leadership Council established under paragraph (7) for the operating costs of the Council.

''(ii) PARTNERSHIPS.—Of the amounts made available to carry out this section, the Administrator shall transfer expeditiously to the Federal partners such sums as are necessary for subsequent use and distribution by the Federal partners in accordance with this section.'';

(7) by striking paragraph (9) (as redesignated by paragraph (1)) and inserting the following:

''(9) GREAT LAKES INTERAGENCY TASK FORCE.—

''(A) ESTABLISHMENT.—There is established a task force, to be known as the 'Great Lakes Interagency Task Force' as described in Executive Order 13340 (33 U.S.C. 1268 note) and relating to the implementation of Federal responsibilities under the Action Plan and the Blueprint.

''(B) MANAGEMENT.—The Administrator shall serve as the chairperson for the Great Lakes Interagency Task Force.

''(C) COORDINATION.—The Program Office shall provide guidance and support to the Great Lakes Interagency Task Force and coordinate, to the maximum extent practicable, with the Great Lakes Leadership Council.

''(D) DUTIES.—The Great Lakes Interagency Task Force shall—

''(i) collaborate with Canada, provinces of Canada, and binational bodies involved in the Great Lakes region regarding policies, strategies, projects, and priorities for the Great Lakes System;

''(ii)(I) coordinate the development of Federal policies, strategies, projects, and priorities for addressing the restoration and protection of the Great Lakes System consistent with the Federal implementation of the approved annual priority list and the Great Lakes Water Quality Agreement, as well as the creation and update of the Blueprint; and

''(II) assist in the appropriate management of the Great Lakes System;

''(iii) use outcome-based goals to guide the implementation of the annual priority list, as well as the creation and update of the Blueprint, relying on existing data and science-based indicators of water quality, related environmental factors, and other information—

''(I) to focus on outcomes such as cleaner water, sustainable fisheries, and biodiversity of the Great Lakes basin; and

''(II) to ensure that Federal policies, strategies, projects, and priorities support measurable results;

''(iv) exchange information regarding policies, strategies, projects, and activities of the agencies represented on the Great Lakes Interagency Task Force relating to—

''(I) the Great Lakes basin;

''(II) the Great Lakes Regional Collaboration Strategy; and

''(III) the Blueprint or the Action Plan;

''(v) coordinate government action associated with the Great Lakes basin;

''(vi) ensure coordinated Federal scientific and other research associated with the Great Lakes basin; and

''(vii) provide technical assistance to the Great Lakes Leadership Council, including in the compilation of the annual priority list.'';

(8) by striking paragraph (11) (as redesignated by paragraph (1)) and inserting the following:

''(11) REPORTS.—

''(A) ANNUAL COMPREHENSIVE RESTORATION REPORT.—Not later than 90 days after the end of each fiscal year, in lieu of the report required under this paragraph as in effect on the day before the date of enactment of the Great Lakes Ecosystem Protection Act of 2010, the Administrator shall submit to Congress and make publicly available a comprehensive report on the overall health of the Great Lakes that includes—

''(i) a description of the achievements during the fiscal year in implementing the annual priority list, the Great Lakes Water Quality Agreement, and any other applicable agreements or amendments that—

''(I) demonstrate, by category (including categories for judicial enforcement, research, State cooperative efforts, and general administration) the amounts expended on Great Lakes water quality initiatives for the fiscal year;

''(II) describe the progress made during the fiscal year in implementing the system of surveillance of the water quality in the Great Lakes System, including the monitoring of groundwater and sediment, with a particular focus on toxic pollutants;

''(III) describe the prospects of meeting the goals and objectives of the Action Plan, the Blueprint, and the Great Lakes Water Quality Agreement; and

''(IV) provide a comprehensive assessment of the planned efforts to be pursued in the succeeding fiscal year for implementing the Action Plan, the Blueprint, the Great Lakes Water Quality Agreement, and any other applicable agreements or amendments that—

''(aa) indicate, by category (including categories for judicial enforcement, research, State cooperative efforts, and general administration) the amount anticipated to be expended on Great Lakes water quality initiatives for the applicable fiscal year; and

''(bb) include a report on programs administered by other Federal agencies that make resources available for Great Lakes water quality management efforts;

''(ii) a detailed list of accomplishments of the Action Plan or the Blueprint with respect to each organizational element of the Blueprint and the means by which progress will be evaluated;

''(iii) recommendations for streamlining the work of existing Great Lakes advisory and coordinating bodies, including a recommendation for eliminating any such entity if the work of the entity—

''(I) is duplicative; or

''(II) complicates the protection and restoration of the Great Lakes; and

''(iv) with respect to each priority submitted under paragraph (8)(C) and recommendations submitted by the Great Lakes Leadership Council under subclauses (II) and (III) of paragraph (7)(A)(ii) during the fiscal year, the reasons why the Administrator implemented, or did not implement, the priorities and recommendations.

''(B) CROSSCUT BUDGET.—Not later than 45 days after the date of submission of the budget of the President to Congress, the Director of the Office of Management and Budget, in coordination with the Governor of each Great Lakes State and the Great Lakes Interagency Task Force, shall submit to Congress and make publicly available a financial report, certified by the head of each agency that has budget authority for Great Lakes restoration activities, containing—

''(i) an interagency budget crosscut report that—

''(I) describes the budget proposed, including funding allocations by each agency for the Action Plan or the Blueprint;

''(II) identifies any adjustments made since the date of submission of the budget request;

''(III) identifies the amounts requested by each participating Federal agency to carry out restoration and protection activities in the subsequent fiscal year, listed by the Federal law under which the activity will be carried out;

''(IV) compares specific funding levels allocated for participating Federal agencies by fiscal year; and

''(V) identifies all expenditures since fiscal year 2004 by the Federal Government and State and tribal governments for Great Lakes restoration activities;

''(ii) a detailed accounting by agency and focus area under the Action Plan or the Blueprint of all amounts received, obligated, and expended by all Federal agencies and, to the maximum extent practicable, State and tribal agencies using Federal funds, for Great Lakes restoration activities during the current and previous fiscal years;

''(iii) a budget for the proposed projects (including a description of the project, authorization level, and project status) to be carried out in the subsequent fiscal year, including the Federal share of costs for the projects; and

''(iv) a list of all projects to be undertaken in the subsequent fiscal year, including the Federal share of costs for the projects.''; and

(9) in paragraph (13) (as redesignated by paragraph (1))—

(A) in subparagraph (E)—

(i) by striking clause (i) and inserting the following:

''(i) NON-FEDERAL SHARE REDUCTION FOR CERTAIN STATE, LOCAL, AND TRIBAL GOVERNMENT SPONSORS.—At the discretion of the Administrator, the Administrator may reduce, but not eliminate, the non-Federal share requirement for State, local, or tribal government sponsors, if the Administrator determines that contribution of the full non-Federal share would result in economic hardship for the applicable State, local, or tribal government sponsor.''; and

(B) in subparagraph (H), by striking clause (i) and inserting the following:

''(i) AUTHORIZATION OF APPROPRIATIONS.—In addition to other amounts authorized under this section, there are authorized to be appropriated to carry out this paragraph—

''(I) $50,000,000 for each of fiscal years 2004 through 2011; and

''(II) $150,000,000 for each of fiscal years 2012 through 2017.''.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 118(h) of the Federal Water Pollution Control Act (33 U.S.C. 1268(h)) is amended—

(1) by striking paragraphs (1) through (3);

(2) by inserting the following:

''(1) PROGRAM OFFICE.—Out of any amounts made available to carry out this section, there is authorized to be appropriated to the Program Office to cover the operating costs of the Program Office (including costs relating to personnel, operations, and administration) $25,000,000 for each of fiscal years 2012 through 2017.

''(2) TASK FORCE.—Out of any amounts made available to carry out this section, there is authorized to be appropriated to the Great Lakes Interagency Task Force to cover the cost of providing technical assistance to the Great Lakes Leadership Council (including the compilation of the annual priority list) $5,000,000 for each of fiscal years 2012 through 2017.''.

(d) EFFECT OF SECTION.—Nothing in this section or an amendment made by this section affects—

(1) the jurisdiction, powers, or prerogatives of—

(A) any department, agency, or officer of—

(i) the Federal Government; or

(ii) any State or tribal government; or

(B) any international body established by treaty with authority relating to the Great Lakes (as defined in section 118(a)(3) of the Federal Water Pollution Control Act (33 U.S.C. 1268(a)(3))); or

(2) any other Federal or State authority that is being used or may be used to facilitate the cleanup and protection of the Great Lakes (as so defined).

SEC. 10253. CONTAMINATED SEDIMENT REMEDIATION APPROACHES, TECHNOLOGIES, AND TECHNIQUES.

Section 106(b) of the Great Lakes Legacy Act of 2002 (33 U.S.C. 1271a(b)) is amended by striking paragraph (1) and inserting the following:

''(1) IN GENERAL.—In addition to amounts authorized under other laws, there are authorized to be appropriated to carry out this section—

''(A) $3,000,000 for each of fiscal years 2004 through 2010; and

''(B) $5,000,000 for each of fiscal years 2012 through 2016.''.

SEC. 10254. AQUATIC NUISANCE SPECIES.

During the 1-year period beginning on the date of enactment of this Act, the Secretary of the Army shall implement measures recommended in the efficacy study, or provided in interim reports, authorized under section 3061 of the Water Resources Development Act of 2007 (121 Stat. 1121), with such modifications or emergency measures as the Secretary of the Army determines to be appropriate, to prevent aquatic nuisance species from bypassing the Chicago Sanitary and Ship Canal Dispersal Barrier Project referred to in that section and to prevent aquatic nuisance species from dispersing into the Great Lakes.

Subtitle G—Long Island Sound Restoration

SEC. 10261. SHORT TITLE.

This subtitle may be cited as the ''Long Island Sound Restoration and Stewardship Act''.

SEC. 10262. AMENDMENTS.

(a) LONG ISLAND SOUND RESTORATION PROGRAM.—

(1) IN GENERAL.—Section 119 of the Federal Water Pollution Control Act (33 U.S.C. 1269) is amended—

(A) by redesignating subsections (a) through (c), (d), (e), and (f) as subsections (b) through (d), (k), (l), and (m), respectively;

(B) by inserting before subsection (b) (as so redesignated) the following:

''(a) DEFINITIONS.—In this section:

''(1) CONFERENCE STUDY.—The term 'conference study' means the management conference of the Long Island Sound Study established pursuant to section 320.

''(2) LONG ISLAND SOUND STATE.—The term 'Long Island Sound State' means each of the States of Connecticut, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont.

''(3) LONG ISLAND SOUND TMDL.—The term 'Long Island Sound TMDL' means a total

maximum daily load established or approved by the Administrator to achieve water quality standards in the waters of the Long Island Sound under section 303(d).

''(4) LONG ISLAND SOUND WATERSHED.—The term 'Long Island Sound watershed' means Long Island Sound and the area consisting of the drainage basin leading into Long Island Sound, including—

''(A) the Connecticut River and associated tributaries;

''(B) the Housatonic River and associated tributaries;

''(C) the Thames River and associated tributaries;

''(D) the Pawcatuck River and associated tributaries; and

''(E) all other tributaries in the States of Connecticut and New York that drain into Long Island Sound.

''(5) NEEDS-BASED APPLICANT.—The term 'needs-based applicant' means a public entity that meets the economic and affordability criteria established by the Administrator, in consultation with the Director of the Office.

''(6) OFFICE.—The term 'Office' means the office established pursuant to subsection (b)(2).'';

(C) by striking subsection (b) (as so redesignated) and inserting the following:

''(b) CONFERENCE STUDY; ESTABLISHMENT OF OFFICE.—The Administrator shall—

''(1) continue the conference study; and

''(2) establish an office in accordance with this section, to be located on or near Long Island Sound.'';

(D) in subsection (d) (as so redesignated)—

(i) in the matter preceding paragraph (1), by striking ''Management Conference of the Long Island Sound Study'' and inserting ''conference study'';

(ii) in paragraph (2)—

(I) in each of subparagraphs (A) through (G), by striking the commas at the end of the subparagraphs and inserting semicolons;

(II) in subparagraph (H), by striking '', and'' and inserting a semicolon;

(III) in subparagraph (I), by striking the period at the end and inserting a semicolon; and

(IV) by adding at the end the following:

''(J) the impacts of climate change on the Long Island Sound watershed, including—

''(i) the identification and assessment of vulnerabilities in the watershed;

''(ii) the development and implementation of adaptation strategies to reduce those vulnerabilities; and

''(iii) the identification and assessment of the impacts of sea level rise on water quality, habitat, and infrastructure in Long Island Sound; and

''(K) planning initiatives for Long Island Sound that identify the areas that are most suitable for various types or classes of activities in order to reduce conflicts among uses, reduce environmental impacts, facilitate compatible uses, or preserve critical ecosystem services to meet economic, environmental, security, or social objectives;'';

(iii) by striking paragraph (4) and inserting the following:

''(4) develop and implement strategies to increase public education and awareness with respect to the ecological health and water quality conditions of Long Island Sound;'';

(iv) in paragraph (5), by inserting ''study'' after ''conference'';

(v) in paragraph (6)—

(I) by inserting ''(including on the Internet)'' after ''the public''; and

(II) by inserting ''study'' after ''conference''; and

(vi) by striking paragraph (7) and inserting the following:

''(7) monitor the progress made toward meeting the identified goals, actions, and schedules of the Comprehensive Conservation and Management Plan, including through the implementation and support of a monitoring system for the ecological health and water quality conditions of Long Island Sound; and'';

(E) by inserting after subsection (d) (as so redesignated) the following:

''(e) STORMWATER DISCHARGES.—

''(1) REGIONAL STORMWATER PERMITTING.—Notwithstanding section 402(p)(3)(B)(i), and at the request of applicable municipalities within the Long Island Sound watershed, a permit under section 402(p) for discharges composed entirely of stormwater may be issued on a regional basis.

''(2) REGULATIONS.—

''(A) IN GENERAL.—Not later than 2 years after the date of enactment of the Long Island Sound Restoration and Stewardship Act, and after providing notice and an opportunity for public comment, the Administrator shall promulgate regulations to implement this subsection, including regulations for the issuance of permits under section 402(p) and, specifically, permit issuance on a regional basis under paragraph (1).

''(B) PERMIT REQUIREMENTS.—In carrying out subparagraph (A), the Administrator shall ensure that—

''(i) all permits held by industrial stormwater dischargers located within an area subject to a municipal discharge permit under section 402(p), regardless of whether the permits are regional permits issued under paragraph (1) or general or individual permits, conform to the conditions included in the municipal discharge permit;

''(ii) all permits held by construction activity dischargers located within an area subject to a municipal discharge permit issued under section 402(p), regardless of whether the permits are regional permits issued under paragraph (1) or general or individual permits, conform to the conditions included in the municipal discharge permit; and

''(iii) monitoring requirements are included in all permits issued under section 402(p).

''(3) TECHNICAL ASSISTANCE.—The Administrator may provide technical assistance to a municipality with respect to the establishment of a regional permit issued under paragraph (1).

''(f) REPORT.—

''(1) IN GENERAL.—Not later than 2 years after the date of enactment of the Long Island Sound Restoration and Stewardship Act, and biennially thereafter, the Director of the Office, in consultation with the Governor of each Long Island Sound State participating in the conference study, shall submit to Congress a report that—

''(A) summarizes and assesses the progress made by the Office and the participating Long Island Sound States in implementing the Long Island Sound Comprehensive Conservation and Management Plan, including an assessment of the progress made toward meeting the performance goals and milestones contained in the Plan;

''(B) assesses the key ecological attributes that reflect the health of the ecosystem of the Long Island Sound watershed;

''(C) describes any substantive modifications to the Long Island Sound Comprehensive Conservation and Management Plan made during the 2-year period preceding the date of submission of the report;

''(D) provides specific recommendations to improve progress in restoring and protecting the Long Island Sound watershed, including, as appropriate, proposed modifications to the Long Island Sound Comprehensive Conservation and Management Plan;

''(E) identifies priority actions for implementation of the Long Island Sound Comprehensive Conservation and Management Plan for the 2-year period following the date of submission of the report; and

''(F) describes the means by which Federal funding and actions will be coordinated with the actions of the participating Long Island Sound States and other entities.

''(2) PUBLIC AVAILABILITY.—The Administrator shall make the report described in paragraph (1) available to the public, including on the Internet.

''(g) ANNUAL BUDGET PLAN.—The President shall submit, together with the annual budget of the United States Government submitted under section 1105(a) of title 31, United States Code, information regarding each Federal department and agency involved in the protection and restoration of the Long Island Sound watershed, including—

''(1) an interagency crosscut budget that displays for each department and agency—

''(A) the amount obligated during the preceding fiscal year for protection and restoration projects and studies relating to the watershed;

''(B) the estimated budget for the current fiscal year for protection and restoration projects and studies relating to the watershed; and

''(C) the proposed budget for succeeding fiscal years for protection and restoration projects and studies relating to the watershed; and

''(2) a summary of any proposed modifications to the Long Island Sound Comprehensive Conservation and Management Plan for the following fiscal year.

''(h) FEDERAL ENTITIES.—

''(1) COORDINATION.—The Administrator shall coordinate the actions of all Federal departments and agencies that impact water quality in the Long Island Sound watershed in order to improve the water quality and living resources of the watershed.

''(2) METHODS.—In carrying out this section, the Administrator, acting through the Director of the Office, may—

''(A) enter into interagency agreements; and

''(B) make intergovernmental personnel appointments.

''(3) FEDERAL PARTICIPATION IN WATERSHED PLANNING.—A Federal department or agency that owns or occupies real property, or carries out activities, within the Long Island Sound watershed shall participate in regional and subwatershed planning, protection, and restoration activities with respect to the watershed.

''(4) CONSISTENCY WITH COMPREHENSIVE CONSERVATION AND MANAGEMENT PLAN.—

''(A) IN GENERAL.—To the maximum extent practicable, the head of each Federal department and agency that owns or occupies real property, or carries out activities, within the Long Island Sound watershed shall ensure that the property and all activities carried out by the department or agency are consistent with the Long Island Sound Comprehensive Conservation and Management Plan (including any related subsequent agreements and plans).

''(B) FORESTED LANDS AND RIPARIAN HABITAT.—Not later than 2 years after the date of enactment of the Long Island Sound Restoration and Stewardship Act, the Administrator shall coordinate with the head of each Federal agency that owns or occupies real property within the Long Island Sound watershed to develop and implement—

''(i) a plan to maximize, to the extent practicable, forest cover and riparian habitat on the property; and

''(ii) a plan for reforestation and riparian habitat recovery, if necessary, on the property.

''(C) STORMWATER MANAGEMENT PRACTICES.—Not later than 2 years after the date of enactment of the Long Island Sound Restoration and Stewardship Act, the Administrator shall coordinate with the head of each Federal agency that owns or occupies real property within the Long Island Sound watershed to develop and implement a plan to minimize or eliminate the discharge of stormwater.

''(D) PLUM ISLAND.—Notwithstanding any other provision of law, the Administrator of General Services shall ensure that any sale or other disposition of real and related personal property and transportation assets pursuant to section 540 of the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009 (Public Law 110–329; 122 Stat. 3688) preserves or enhances the environmental, ecological, cultural, historic, and scenic characteristics of the property or assets.

''(i) TRADING PROGRAM.—

''(1) ESTABLISHMENT.—The Administrator shall, in consultation with the Governor of each Long Island Sound State—

''(A) not later than September 30, 2011, publish a proposal for a voluntary interstate nitrogen trading program with respect to Long Island Sound that includes the generation, trading, and use of nitrogen credits to facilitate the attainment and maintenance of the Long Island Sound TMDL; and

''(B) not later than March 1, 2012, establish a voluntary interstate nitrogen trading program with respect to Long Island Sound that includes the generation, trading, and use of nitrogen credits to facilitate the attainment and maintenance of the Long Island Sound TMDL.

''(2) REQUIREMENTS.—The trading program established under paragraph (1) shall, at a minimum—

''(A) establish procedures or standards for certifying, verifying, and enforcing nitrogen credits to ensure that credit-generating practices from both point sources and nonpoint sources are achieving actual reductions in nitrogen; and

''(B) establish procedures or standards for providing public transparency with respect to trading activity.

''(j) ANNUAL PRIORITY LIST.—

''(1) IN GENERAL.—After providing notice, the Director of the Office, in consultation with the Governors of each Long Island Sound State participating in the conference study, shall annually compile a priority list identifying and prioritizing the activities, projects, programs, and studies intended to be funded during the succeeding fiscal year with the amounts made available under subsection (k).

''(2) INCLUSIONS.—The annual priority list compiled under paragraph (1) shall include—

''(A) a prioritized list of specific activities, projects, programs, and studies that—

''(i) advance the goals and objectives of the approved Long Island Sound Comprehensive Conservation and Management Plan; and

''(ii) select, to the maximum extent practicable and consistent with clause (i), those projects for which the matching funds available exceed the minimum level required under subsection (k)(3).

''(B) information on the activities, projects, programs, and studies specified under subparagraph (A), including a description of—

''(i) the terms of financial assistance agreements or interagency agreements;

''(ii) the identities of the financial assistance recipients or the Federal agency parties to the interagency agreements; and

''(iii) the communities to be served; and

''(C) the criteria and methods established by the Director of the Office for the selection of activities, projects, programs, and studies.

''(3) APPROVAL OF LIST.—

''(A) SUBMISSION.—On August 1 of each calendar year, the Director of the Office shall submit the annual priority list compiled under paragraph (1) to the Administrator for approval.

''(B) APPROVAL.—The Administrator shall approve or disapprove a list submitted under subparagraph (A) or resubmitted under subparagraph (C) based on a determination of whether—

''(i) the activities, projects, programs, and studies listed advance the goals and objectives of the approved Long Island Sound Comprehensive Conservation and Management Plan; and

''(ii) the list, as a whole, meets the criteria established under subsection (j)(2)(A)(ii).

''(C) EFFECT OF DISAPPROVAL.—If the Administrator disapproves a list submitted under subparagraph (A) or (C), the Administrator shall—

''(i) provide the Director of the Office, in writing, a notification of the basis for the disapproval; and

''(ii) allow the Director of the Office the opportunity for resubmission of a revised annual priority list that addresses, to the maximum extent practicable, the comments contained in the written disapproval of the Administrator described in clause (i).

''(D) FAILURE OF ADMINISTRATOR TO RESPOND.—If, by the date that is 60 days after the date of submission or resubmission to the Administrator of an annual priority list by the Director of the Office, the Administrator fails to respond to the submission or resubmission in writing, the annual priority list shall be considered to be approved.

''(4) FAILURE TO COMPILE LIST.—

''(A) IN GENERAL.—If, by the date that is 180 days after the annual date of submission specified in paragraph (3)(A), the Director of the Office fails to compile an annual priority list in accordance with paragraph (1) or secures only a written disapproval from the Administrator for a list submitted under subparagraph (A) or (C) of paragraph (3), the Administrator shall compile a priority list for the fiscal year that includes—

''(i) activities, projects, programs, or studies that advance the goals and objectives of the approved Long Island Sound Comprehensive Conservation and Management Plan;

''(ii) any identified activities, projects, programs, or studies from previously approved priority lists that have not yet been funded;

''(iii) information on the activities, projects, programs, and studies specified under clause (i) and (ii), including a description of—

''(I) the terms of financial assistance agreements or interagency agreements;

''(II) the identities of the financial assistance recipients or the Federal agency parties to the interagency agreements; and

''(III) the communities to be served; and

''(iv) the criteria and methods established by the Administrator for selection of activities, projects, programs, and studies.

''(B) APPROVAL.—A list compiled by the Administrator in accordance with subparagraph (A) shall be considered to be an approved annual priority list for the purposes of this section.'';

(F) by striking subsection (k) (as so redesignated) and inserting the following:

''(k) GRANTS.—

''(1) IN GENERAL.—The Administrator may provide grants under this subsection for activities, projects, programs, and studies included on an annual priority list approved pursuant to subsection (j).

''(2) ELIGIBILITY.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the Administrator may provide grants under this subsection to State, interstate, and regional water pollution control agencies and other public and nonprofit private agencies, institutions, and organizations.

''(B) CONSTRUCTION OF TREATMENT WORKS.—

''(i) IN GENERAL.—The Administrator may provide a grant under this subsection for the construction of a publicly owned treatment works, including municipal separate storm sewer systems (which may use low-impact development technologies or other innovative approaches or methods to address combined sewer overflows), within a Long Island Sound State only—

''(I) to a municipal, intermunicipal, State, or interstate agency;

''(II) if the State in which the recipient agency is located has established, or the Administrator has established for the State, allocations for discharges within the State in a Long Island Sound TMDL; and

''(III) if the project is included on an annual priority list approved pursuant to subsection (j).

''(ii) MINIMUM FUNDING.—To the extent practicable, the Administrator shall make grants to agencies under this subparagraph in a manner that ensures that each Long Island Sound State meeting the criteria established in clause (i)(II) receives for each fiscal year not less than 5 percent of the total amount made available in grants under this subparagraph in that fiscal year.

''(3) FEDERAL SHARE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the Federal share of the total cost of an activity, project, program, or study funded by a grant provided under this subsection shall not exceed—

''(i) 95 percent, in the case of a citizen involvement or citizen education grants;

''(ii) 65 percent of the costs of construction, in the case of a grant to construct a municipal storm sewer system made under this subsection to a municipality that is subject to a regional permit issued under subsection (e)(1); or

''(iii) 50 percent, in the case of any other activity, project, program, or study.

''(B) IN-KIND CONTRIBUTIONS.—The non-Federal share of the cost of an activity, project, program, or study carried out under this section may include the value of any in-kind services contributed by a non-Federal sponsor.

''(C) EXCEPTION.—The Administrator may use up to 15 percent of the funds made available to carry out this subsection for a fiscal year to increase the Federal share up to 100 percent for an activity, project, program, or study that is carried out by a needs-based applicant.

''(D) NON-FEDERAL SHARE.—Each grant provided under this subsection shall be provided on the condition that the non-Federal share of the costs of the activity, project, program, or study funded by the grant are provided from non-Federal sources.''; and

(G) by striking subsection (m) (as so redesignated) and inserting the following:

''(m) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There are authorized to be appropriated to carry out this section (other than subsection (k)) such sums as are necessary for each of fiscal years 2012 through 2016.

''(2) RELATIONSHIP TO OTHER FUNDING.—The conference study shall be eligible to receive funding under section 320(g), except to the extent that funds provided under this section for projects and programs are used for the general administration of the management conference under section 320.

''(3) GRANTS.—There are authorized to be appropriated to carry out subsection (k)—

''(A) for grants described in subsection (k)(2)(B) to construct publicly owned treatment works, including municipal separate

storm sewer systems (which may use low-impact development technologies or other innovative approaches or methods to address combined sewer overflows)—

''(i) $125,000,000 for fiscal year 2012; and

''(ii) $250,000,000 for each of fiscal years 2013 through 2016; and

''(B) for all grants other than those described in subsection (k)(2)(B), $40,000,000 for each of fiscal years 2012 through 2016.''.

(b) LONG ISLAND SOUND STEWARDSHIP PROGRAM.—

(1) LONG ISLAND SOUND STEWARDSHIP ADVISORY COMMITTEE.—Section 8 of the Long Island Sound Stewardship Act of 2006 (33 U.S.C. 1269 note; Public Law 109–359) is amended—

(A) in subsection (g), by striking ''2011'' and inserting ''2016''; and

(B) by adding at the end the following:

''(h) NONAPPLICABILITY OF FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to—

''(1) the Advisory Committee; or

''(2) any board, committee, or other group established under this Act.''.

(2) REPORTS.—Section 9(b)(1) of the Long Island Sound Stewardship Act of 2006 (33 U.S.C. 1269 note; Public Law 109–359) is amended in the matter preceding subparagraph (A) by striking ''2011'' and inserting ''2016''.

(3) AUTHORIZATION OF APPROPRIATIONS.—Section 11 of the Long Island Sound Stewardship Act of 2006 (33 U.S.C. 1269 note; Public Law 109–359) is amended—

(A) by striking subsection (a) and inserting the following:

''(a) IN GENERAL.—There are authorized to be appropriated to the Administrator for each of fiscal years 2012 through 2016—

''(1) to provide grants under section 7, $25,000,000; and

''(2) to carry out other provisions of this Act, such additional sums as are necessary.''; and

(B) in subsection (b), by striking ''under this section each'' and inserting ''to carry out this Act for a''.

(4) EFFECTIVE DATE.—The amendments made by this subsection take effect on October 1, 2010.

SEC. 10263. INNOVATIVE STORMWATER MANAGEMENT APPROACHES.

Title V of the Federal Water Pollution Control Act (33 U.S.C. 1361 et seq.) is amended—

(1) by redesignating section 519 as section 520; and

(2) by inserting after section 518 the following:

''SEC. 519. INNOVATIVE STORMWATER MANAGEMENT APPROACHES.

''To the maximum extent practicable, the Administrator shall consider the use of innovative stormwater management practices and approaches, including nutrient trading with respect to water quality and the use of low impact development technologies, in meeting the requirements of this Act.''.

SEC. 10264. NUTRIENT BIOEXTRACTION PILOT PROJECT.

(a) DEFINITION OF NUTRIENT BIOEXTRACTION.—In this section, the term ''nutrient bioextraction'' means an environmental management strategy under which nutrients are removed from an aquatic ecosystem through the harvest of enhanced biological production, including the aquaculture of suspension-feeding shellfish or algae.

(b) PILOT PROJECT.—Not later than 2 years after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall carry out a pilot project to demonstrate the efficacy of nutrient bioextraction for the removal of nitrogen and phosphorous from the waters of the Long Island Sound watershed.

(c) REPORT.—Not later than 5 years after the date of enactment of this Act, the Administrator shall submit to Congress a report describing the results of the pilot project under this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,000,000.

Subtitle H—Chesapeake Clean Water and Ecosystem Restoration

SEC. 10271. SHORT TITLE.

This subtitle may be cited as the ''Chesapeake Clean Water and Ecosystem Restoration Act''.

SEC. 10272. CHESAPEAKE BASIN PROGRAM.

Section 117 of the Federal Water Pollution Control Act (33 U.S.C. 1267) is amended to read as follows:

''SEC. 117. CHESAPEAKE BASIN PROGRAM.

''(a) DEFINITIONS.—In this section:

''(1) ADMINISTRATIVE COST.—The term 'administrative cost' means the cost of salaries and fringe benefits incurred in administering a financial assistance agreement under this section.

''(2) ASIAN OYSTER.—The term 'Asian oyster' means the species Crassostrea ariakensis.

''(3) BASELINE.—The term 'baseline'—

''(A) means the basic standard or level of the nitrogen and phosphorus control requirements a credit seller shall achieve to be eligible to generate saleable nitrogen and phosphorus credits; and

''(B) consists of the nitrogen and phosphorus load reductions required of individual sources to meet water quality standards and load or waste load allocations under all applicable total maximum daily loads and watershed implementation plans.

''(4) BASIN COMMISSIONS.—The term 'basin commissions' means—

''(A) the Interstate Commission on the Potomac River Basin established under the interstate compact consented to and approved by Congress under the Joint Resolution of July 11, 1940 (54 Stat. 748, chapter 579) and Public Law 91–407 (84 Stat. 856);

''(B) the Susquehanna River Basin Commission established under the interstate compact consented to and approved by Congress under Public Law 91–575 (84 Stat. 1509) and Public Law 99–468 (100 Stat. 1193); and

''(C) the Chesapeake Bay Commission, a tri-State legislative assembly representing Maryland, Virginia, and Pennsylvania created in 1980 to coordinate Bay-related policy across State lines and to develop shared solutions.

''(5) CHESAPEAKE BASIN.—The term 'Chesapeake Basin' means—

''(A) the Chesapeake Bay; and

''(B) the area consisting of 19 tributary basins within the Chesapeake Basin States through which precipitation drains into the Chesapeake Bay.

''(6) CHESAPEAKE BASIN ECOSYSTEM.—The term 'Chesapeake Basin ecosystem' means the ecosystem of the Chesapeake Basin.

''(7) CHESAPEAKE BASIN PROGRAM.—The term 'Chesapeake Basin Program' means the program, formerly known as the 'Chesapeake Bay Program', directed by the Chesapeake Executive Council in accordance with the Chesapeake Bay Agreement (including any successor programs).

''(8) CHESAPEAKE BASIN STATE.—The term 'Chesapeake Basin State' means any of—

''(A) the States of Delaware, Maryland, New York, Pennsylvania, Virginia, and West Virginia; or

''(B) the District of Columbia.

''(9) CHESAPEAKE BAY AGREEMENT.—The term 'Chesapeake Bay Agreement' means the formal, voluntary agreements executed to achieve the goal of restoring and protecting the Chesapeake Basin ecosystem and the living resources of the Chesapeake Basin ecosystem and signed by the Chesapeake Executive Council.

''(10) CHESAPEAKE BAY TIDAL SEGMENT.—The term 'Chesapeake Bay tidal segment' means any of the 92 tidal segments that—

''(A) make up the Chesapeake Bay; and

''(B) are identified by a Chesapeake Basin State pursuant to section 303(d).

''(11) CHESAPEAKE BAY TMDL.—

''(A) IN GENERAL.—The term 'Chesapeake Bay TMDL' means the total maximum daily load (including any revision) established or approved by the Administrator for nitrogen, phosphorus, and sediment loading to the waters in the Chesapeake Bay and the Chesapeake Bay tidal segments.

''(B) INCLUSIONS.—The term 'Chesapeake Bay TMDL' includes nitrogen, phosphorus, and sediment allocations in temporal units of greater-than-daily duration, if the allocations—

''(i) are demonstrated to achieve water quality standards; and

''(ii) do not lead to violations of other applicable water quality standards for local receiving waters.

''(12) CHESAPEAKE EXECUTIVE COUNCIL.—The term 'Chesapeake Executive Council' means the signatories to the Chesapeake Bay Agreement.

''(13) CLEANING AGENT.—The term 'cleaning agent' means a laundry detergent, dishwashing compound, household cleaner, metal cleaner, degreasing compound, commercial cleaner, industrial cleaner, phosphate compound, or other substance that is intended to be used for cleaning purposes.

''(14) CREDIT.—The term 'credit' means a unit provided for 1 pound per year reduction of nitrogen, phosphorus, or sediment that is—

''(A) delivered to the tidal portion of the Chesapeake Bay; and

''(B) eligible to be sold under the trading programs established by this section.

''(15) DIRECTOR.—The term 'director' means the Director of the Chesapeake Basin Program Office of the Environmental Protection Agency.

''(16) LOCAL GOVERNMENT.—The term 'local government' means any county, city, or other general purpose political subdivision of a State with jurisdiction over land use.

''(17) MENHADEN.—The term 'menhaden' means members of stocks or populations of the species Brevoortia tyrannus.

''(18) NUTRIA.—The term 'nutria' means the species Myocaster coypus.

''(19) OFFSET.—The term 'offset' means a reduction of loading of nitrogen, phosphorous, or sediment, as applicable, in a manner that ensures that the net loading reaching the Chesapeake Bay and the Chesapeake Bay tidal segments from a source—

''(A) does not increase; or

''(B) is reduced.

''(20) SIGNATORY JURISDICTION.—The term 'signatory jurisdiction' means a jurisdiction of a signatory to the Chesapeake Bay Agreement.

''(21) TRIBUTARY BASIN.—The term 'tributary basin' means an area of land or body of water that—

''(A) drains into any of the 19 Chesapeake Bay tributaries or tributary segments; and

''(B) is managed through watershed implementation plans under this Act.

''(b) RENAMING AND CONTINUATION OF CHESAPEAKE BAY PROGRAM.—

''(1) IN GENERAL.—In cooperation with the Chesapeake Executive Council (and as a member of the Council), the Administrator shall—

''(A) rename the Chesapeake Bay Program, as in existence on the date of enactment of the Chesapeake Clean Water and Ecosystem

Restoration Act, as the 'Chesapeake Basin Program'; and

''(B) continue to carry out the Chesapeake Basin Program.

''(2) MEETINGS.—

''(A) IN GENERAL.—The Chesapeake Executive Council shall meet not less frequently than once each year.

''(B) OPEN TO PUBLIC.—

''(i) IN GENERAL.—Subject to clause (ii), a meeting of the Chesapeake Executive Council shall be held open to the public.

''(ii) EXCEPTION.—The Chesapeake Executive Council may hold executive sessions that are closed to the public.

''(3) PROGRAM OFFICE.—

''(A) IN GENERAL.—The Administrator shall maintain in the Environmental Protection Agency a Chesapeake Basin Program Office.

''(B) FUNCTION.—The Chesapeake Basin Program Office shall provide support to the Chesapeake Executive Council by—

''(i) implementing and coordinating science, research, modeling, support services, monitoring, data collection, and other activities that support the Chesapeake Basin Program;

''(ii) developing and making available, through publications, technical assistance, and other appropriate means, information pertaining to the environmental quality and living resources of the Chesapeake Basin ecosystem;

''(iii) in cooperation with appropriate Federal, State, and local authorities, assisting the signatories to the Chesapeake Bay Agreement in developing and implementing specific action plans to carry out the responsibilities of the signatories to the Chesapeake Bay Agreement;

''(iv) coordinating the actions of the Environmental Protection Agency with the actions of the appropriate officials of other Federal agencies and State and local authorities in developing strategies to—

''(I) improve the water quality and living resources in the Chesapeake Basin ecosystem; and

''(II) obtain the support of the appropriate officials of the agencies and authorities in achieving the objectives of the Chesapeake Bay Agreement; and

''(v) implementing outreach programs for public information, education, and participation to foster stewardship of the resources of the Chesapeake Basin.

''(C) TRANSPARENCY AND ACCOUNTABILITY.—The Administrator shall establish and maintain a user-friendly, public-facing website to foster greater accountability, transparency, and knowledge regarding the Chesapeake Basin ecosystem health and restoration efforts by providing—

''(i) information on all Chesapeake Basin Program Office functions described in subparagraph (B);

''(ii) accountability information, including findings from audits, inspectors general, and the Government Accountability Office;

''(iii) data on relevant economic, financial, grant, and contract information in user-friendly visual presentations to enhance public awareness of the use of covered funds;

''(iv) links to other government websites at which key information relating to efforts to improve the water quality of the Chesapeake Bay watershed may be found;

''(v) printable reports on covered funds obligated, expressed by month, to each State and congressional district; and

''(vi) links to other government websites containing information concerning covered funds, including Federal agency and State websites.

''(c) INTERAGENCY AGREEMENTS.—The Administrator may enter into an interagency agreement with a Federal agency to carry out this section.

''(d) TECHNICAL ASSISTANCE AND FINANCIAL ASSISTANCE.—

''(1) IN GENERAL.—In cooperation with the Chesapeake Executive Council, the Administrator may provide technical assistance, and assistance awards, to soil conservation districts, nonprofit organizations, State and local governments, basin commissions, and institutions of higher education to carry out this section, subject to such terms and conditions as the Administrator considers appropriate.

''(2) FEDERAL SHARE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the Federal share of a financial assistance agreement provided under paragraph (1) shall be determined by the Administrator in accordance with guidance issued by the Administrator.

''(B) CHESAPEAKE BASIN STEWARDSHIP AWARDS PROGRAM.—The Federal share of a financial assistance agreement provided under paragraph (1) to carry out an implementing activity under subsection (h)(2) shall not exceed 75 percent of eligible project costs, as determined by the Administrator.

''(3) NON-FEDERAL SHARE.—A financial assistance agreement under paragraph (1) shall be provided on the condition that non-Federal sources provide the remainder of eligible project costs, as determined by the Administrator.

''(4) NITROGEN AND PHOSPHORUS TRADING GUARANTEE PILOT PROGRAM.—The project manager of the Chesapeake nitrogen and phosphorus trading guarantee program established under subsection (e)(1)(D) shall be eligible to receive technical assistance or financial assistance under this subsection.

''(e) IMPLEMENTATION, MONITORING, AND CENTERS OF EXCELLENCE FINANCIAL ASSISTANCE AWARDS.—

''(1) FINANCIAL ASSISTANCE AWARDS.—

''(A) IMPLEMENTATION FINANCIAL ASSISTANCE AWARDS.—The Administrator shall enter into an implementation financial assistance agreement with the Chesapeake Basin State, or a designee of a Chesapeake Basin State (including a soil conservation district, nonprofit organization, local government, institution of higher education, basin commission, or interstate agency), for the purposes of implementing an approved watershed implementation plan of the Chesapeake Basin State under subsection (i) and achieving the goals established under the Chesapeake Bay Agreement, subject to such terms and conditions as the Administrator considers to be appropriate.

''(B) MONITORING FINANCIAL ASSISTANCE AWARDS.—The Administrator may enter into a monitoring financial assistance agreement with—

''(i) a Chesapeake Basin State, designee of a Chesapeake Basin State, soil conservation district, nonprofit organization, local government, institution of higher education, or basin commission for the purpose of monitoring the ecosystem of freshwater tributaries to the Chesapeake Bay; or

''(ii) any of the States of Delaware, Maryland, or Virginia (or a designee), the District of Columbia (or a designee), nonprofit organization, local government, institution of higher education, or interstate agency for the purpose of monitoring the Chesapeake Bay, including the tidal waters of the Chesapeake Bay.

''(C) CENTERS OF EXCELLENCE FINANCIAL ASSISTANCE AWARDS.—The Administrator, in consultation with the Secretary of Agriculture, may enter into financial assistance agreements with institutions of higher education, consortia of such institutions, or nonprofit organizations for the purpose of establishing and supporting centers of excellence for water quality and agricultural practices—

''(i) to develop new technologies and innovative policies and practices for agricultural producers to reduce nitrogen, phosphorous, and sediment pollution;

''(ii) to quantify the expected load reductions of those pollutants to be achieved in the Chesapeake Basin through the implementation of current and newly developed technologies, policies, and practices; and

''(iii) to provide to the Administrator and the Secretary recommendations for—

''(I) the widespread deployment of those technologies, policies, and practices among agricultural producers; and

''(II) the application of those technologies, policies, and practices in Chesapeake Basin computer models.

''(D) CHESAPEAKE NITROGEN AND PHOSPHORUS TRADING GUARANTEE PILOT PROGRAM.—

''(i) IN GENERAL.—The Administrator, in consultation with the Chesapeake Basin States and with the concurrence of the Secretary of Agriculture, shall establish a Chesapeake nitrogen and phosphorus trading guarantee pilot program (referred to in this subparagraph as the 'guarantee pilot program') to support—

''(I) the interstate trading program established under subsection (j)(6); and

''(II) the environmental services market program under section 1245 of the Food Security Act of 1985 (16 U.S.C. 3845).

''(ii) PURPOSES.—The purposes of the guarantee pilot program are—

''(I) to develop innovative policies and practices to more efficiently and effectively implement best management practices, primarily on agricultural land;

''(II) to leverage public funding to raise private capital to accelerate the restoration of the Chesapeake Bay by providing a Federal guarantee on nitrogen and phosphorus credit purchases;

''(III) to support nitrogen and phosphorus trading throughout the Chesapeake Basin; and

''(IV) to demonstrate the effectiveness of environmental services markets.

''(iii) PROJECT MANAGER.—

''(I) IN GENERAL.—The Administrator shall designate a project manager to carry out the guarantee pilot program.

''(II) QUALIFICATIONS.—The project manager shall be an institution of higher education, a nonprofit organization, or a basin commission that—

''(aa) demonstrates thorough knowledge and understanding of best management practices that result in nitrogen and phosphorus reductions in the Chesapeake Basin;

''(bb) demonstrates thorough knowledge and understanding of the Chesapeake watershed computer model of the Environmental Protection Agency;

''(cc) demonstrates thorough knowledge and understanding of the relevant Federal and State environmental regulations relating to the Chesapeake Basin;

''(dd) has a demonstrated history of discharging fiduciary responsibilities with transparency and in accordance with all applicable accounting standards; and

''(ee) has relevant experience relating to environmental services markets, including pollution offsets and transactions involving pollution offsets.

''(III) DUTIES.—

''(aa) IN GENERAL.—The project manager shall provide guarantees to purchasers of nitrogen and phosphorus credits under the interstate trading program established under subsection (j)(6).

''(bb) MANAGERIAL DUTIES.—In carrying out the guarantee pilot program, the project manager shall—

''(AA) identify best management practices that result in the greatest reduction in pollution levels;

''(BB) establish offset metrics for calculation, verification, and monitoring protocols in collaboration with Federal and State programs;

''(CC) manage and oversee project verification and monitoring processes;

''(DD) establish procedures that minimize transaction costs and eliminate unnecessary or duplicative administrative processes;

''(EE) take ownership of the nitrogen and phosphorus reduction offsets from any private funding source for an activity carried out under this subparagraph;

''(FF) enter into agreements with private funding sources that enable a private funding source, at the conclusion of a project, to sell the verified nitrogen and phosphorus reduction offset to the program manager at an agreed upon price, or to sell the verified nitrogen and phosphorus reduction offsets; and

''(GG) manage the Chesapeake Nitrogen and Phosphorus Trading Guarantee Fund.

''(iv) CREDIT PURCHASER REQUIREMENTS.—As a condition of receiving a guarantee under this subparagraph, a purchaser shall comply with—

''(I) the regulations promulgated by the Administrator under subsection (j)(6);

''(II) any application procedure that the Administrator, in consultation with the project manager, determines to be necessary; and

''(III) any other applicable laws (including regulations).

''(v) TERMINATION.—The guarantee pilot program shall terminate on the date that is 5 years after the date of the establishment of the interstate trading program under subsection (j)(6).

''(vi) REPORTS.—

''(I) IN GENERAL.—The project manager shall—

''(aa) ensure public transparency for all nitrogen and phosphorus trading activities through a publicly available trading registry; and

''(bb) submit an annual report to the Administrator, the Committee on Environment and Public Works of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives.

''(II) CONTENTS.—A report under subclause (I)(bb) shall include a description of—

''(aa) the activities funded by the guarantee pilot program;

''(bb) the total quantity of nitrogen and phosphorus reduced and an identification of the data used to support those quantifications;

''(cc) the efficiency of each project carried out under the guarantee pilot program, measured in pounds of pollution reduced per dollar expended;

''(dd) the total quantity of nitrogen, phosphorus, and sediment reduced; and

''(ee) the total amount of private funds leveraged.

''(E) CHESAPEAKE NITROGEN AND PHOSPHORUS TRADING GUARANTEE FUND.—

''(i) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a fund to be known as the 'Chesapeake Nitrogen and Phosphorus Trading Guarantee Fund' (referred to in this subparagraph as the 'Fund'), to be administered by the Administrator, to be available for 5 years after the date of the establishment of the interstate trading program under subsection (j)(6) and subject to appropriation, for the purposes described in subparagraph (D)(ii).

''(ii) TRANSFERS TO FUND.—The Fund shall consist of such amounts as are appropriated to the Fund under subsection (p)(2)(v).

''(iii) PROHIBITION.—Amounts in the Fund may not be made available for any purpose other than a purpose described in clause (i).

''(iv) TERMINATION.—Subject to clause (v), the Fund shall terminate on the date that is 5 years after the date of establishment of the interstate trading program under subsection (j)(6).

''(v) UNOBLIGATED AMOUNTS.—On the termination of the Fund, the Administrator shall—

''(I) require the return of any unobligated amounts in the Fund to the Secretary of the Treasury; or

''(II) reauthorize the use of the Fund for the purposes described in clause (i).

''(vi) ANNUAL REPORTS.—

''(I) IN GENERAL.—Not later than 60 days after the end of each fiscal year beginning with the first fiscal year after the date of the establishment of the interstate trading program under subsection (j)(6), the Administrator shall submit to the Committee on Appropriations of the House of Representatives, the Committee on Appropriations of the Senate, the Committee on Environment and Public Works of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives a report on the operation of the Fund during the fiscal year.

''(II) CONTENTS.—Each report shall include, for the fiscal year covered by the report, the following:

''(aa) A statement of the amounts deposited in the Fund.

''(bb) A description of the expenditures made from the Fund for the fiscal year, including the purpose of the expenditures.

''(cc) Recommendations for additional authorities to fulfill the purpose of the Fund.

''(dd) A statement of the balance remaining in the Fund at the end of the fiscal year.

''(2) ADMINISTRATION.—

''(A) IN GENERAL.—Subject to subparagraph (C), in making implementation financial assistance awards to each of the Chesapeake Basin States for a fiscal year under this subsection, the Administrator shall ensure that not less than—

''(i) 10 percent of the funds available to make such financial assistance awards are made to the States of Delaware, New York, and West Virginia (or designees of those States); and

''(ii) 20 percent of the funds available to make such financial assistance awards are made to States (or designees of the States) for the sole purpose of providing technical assistance to agricultural producers and forest owners to access conservation programs and other resources devoted to improvements in, and protection of, water quality in the Chesapeake Bay and the tributaries of the Chesapeake Bay, in accordance with subparagraph (B).

''(B) TECHNICAL ASSISTANCE.—A State (or designees of a State) may use any soil conservation district, nonprofit organization, private sector vendor, or other appropriately qualified provider to deliver technical assistance to agricultural producers and forest owners under subparagraph (A)(ii).

''(C) NONAPPLICABILITY TO DC.—This paragraph shall not apply to any implementation financial assistance award provided to the District of Columbia.

''(3) PROPOSALS.—

''(A) IMPLEMENTATION FINANCIAL ASSISTANCE AWARDS.—

''(i) IN GENERAL.—A Chesapeake Basin State described in paragraph (1) may apply for a financial assistance agreement under this subsection for a fiscal year by submitting to the Administrator a comprehensive proposal to implement programs and achieve the goals established under the Chesapeake Bay Agreement.

''(ii) IMPLEMENTATION FINANCIAL ASSISTANCE AGREEMENT CONTENTS.—A proposal under clause (i) shall include—

''(I) a description of the proposed actions that the Chesapeake Basin State commits to take within a specified time period, including 1 or more of actions that are designed—

''(aa) to achieve and maintain all applicable water quality standards, including standards necessary to support the aquatic living resources of the Chesapeake Bay and related tributaries and to protect human health;

''(bb) to restore, enhance, and protect the finfish, shellfish, waterfowl, and other living resources, habitats of those species and resources, and ecological relationships to sustain all fisheries and provide for a balanced ecosystem;

''(cc) to preserve, protect, and restore those habitats and natural areas that are vital to the survival and diversity of the living resources of the Chesapeake Bay and associated rivers;

''(dd) to develop, promote, and achieve sound land use practices that protect and restore watershed resources and water quality, reduce or maintain reduced pollutant loadings for the Chesapeake Bay and related tributaries, and restore and preserve aquatic living resources;

''(ee) to promote individual stewardship and assist individuals, community-based organizations, businesses, local governments, and schools to undertake initiatives to achieve the goals and commitments of the Chesapeake Bay Agreement; or

''(ff) to provide technical assistance to agricultural producers, forest owners, and other eligible entities, through technical infrastructure, including activities, processes, tools, and agency functions needed to support delivery of technical services, such as technical standards, resource inventories, training, data, technology, monitoring, and effects analyses;

''(II) except with respect to any implementation financial assistance agreement proposal by the District of Columbia, a commitment to dedicate not less than 20 percent of the financial assistance award for the Chesapeake Bay under this subsection to support technical assistance for agricultural and forest land or nitrogen and phosphorus management practices that protect and restore watershed resources and water quality, reduce or maintain reduced pollutant loadings for the Chesapeake Bay and related tributaries, and restore and preserve aquatic living resources; and

''(III) the estimated cost of the actions proposed to be taken during the year.

''(B) MONITORING FINANCIAL ASSISTANCE AWARDS.—

''(i) IN GENERAL.—An eligible entity described in paragraph (1)(B) may apply for a financial assistance agreement under this subsection for a fiscal year by submitting to the Administrator a comprehensive proposal to monitor freshwater or estuarine ecosystems, including water quality.

''(ii) MONITORING FINANCIAL ASSISTANCE AGREEMENT CONTENTS.—A proposal under this subparagraph shall include—

''(I) a description of the proposed monitoring system;

''(II) certification by the Director that such a monitoring system includes such parameters as the Director determines to be necessary to assess progress toward achieving the goals of the Chesapeake Clean Water and Ecosystem Restoration Act; and

''(III) the estimated cost of the monitoring proposed to be conducted during the year.

''(iii) CONSULTATION.—The Administrator shall consult with—

''(I) the Director of the United States Geological Survey regarding the design and implementation of the freshwater monitoring systems established under this subsection;

''(II) the Director of the Chesapeake Bay Office of the National Oceanic and Atmospheric Administration regarding the design and implementation of the estuarine monitoring systems established under this subsection;

''(III) with respect to the freshwater monitoring system, the basin commissions, institutions with expertise in clean water and agricultural policy and practices, and the Chesapeake Basin States regarding the design and implementation of the monitoring systems established under this subsection—

''(aa) giving particular attention through fine scale instream and infield stream-edge and groundwater analysis to the measurement of the water quality effectiveness of agricultural conservation program implementation, including the Chesapeake Bay Watershed Initiative under section 1240Q of the Food Security Act of 1985 (16 U.S.C. 3839bb–4); and

''(bb) analyzing the effectiveness of stormwater pollution control and mitigation using green infrastructure techniques in subwatersheds that have high levels of impervious surfaces;

''(IV) with respect to the estuarine monitoring system, institutions of higher education with expertise in estuarine systems and the Chesapeake Basin States regarding the monitoring systems established under this subsection;

''(V) the Chesapeake Basin Program Scientific and Technical Advisory Committee regarding independent review of monitoring designs giving particular attention to integrated freshwater and estuarine monitoring strategies; and

''(VI) Federal departments and agencies, including the Department of Agriculture, regarding cooperation in implementing monitoring programs.

''(f) FEDERAL FACILITIES COORDINATION.—

''(1) SUBWATERSHED PLANNING AND RESTORATION.—A Federal agency that owns or operates a facility (as defined by the Administrator) within the Chesapeake Basin shall participate in regional and subwatershed planning and restoration programs.

''(2) COMPLIANCE WITH AGREEMENTS AND PLANS.—The head of each Federal agency that owns or occupies real property in the Chesapeake Basin shall ensure that the property, and actions taken by the agency with respect to the property, comply with—

''(A) the Chesapeake Bay Agreement;

''(B) the Federal Agencies Chesapeake Ecosystem Unified Plan;

''(C) the Chesapeake Basin action plan developed in accordance with subsection (h)(1)(A); and

''(D) any subsequent agreements and plans.

''(3) FOREST COVER AT FEDERAL FACILITIES.—Not later than January 1, 2012, the Administrator, with the advice of the Chief of the Forest Service and the appropriate Chesapeake Basin State forester, shall coordinate with the head of each Federal agency that owns or operates a facility within the Chesapeake Basin (as determined by the Administrator) to develop plans to maximize forest cover at the facility through—

''(A) the preservation of existing forest cover; or

''(B) with respect to a facility that has been previously disturbed or developed, the development of a reforestation plan.

''(g) FEDERAL ANNUAL ACTION PLAN AND PROGRESS REPORT.—The Administrator, in accordance with Executive Order 13508 entitled 'Chesapeake Bay Protection and Restoration' and signed on May 12, 2009 (74 Fed. Reg. 23099), shall—

''(1)(A) make available to the public, not later than March 31 of each year—

''(i) a financial report, to be submitted to Congress beginning with the budget submission for fiscal year 2012 by the Director of the Office of Management and Budget, in consultation with other appropriate Federal agencies and the chief executive of each Chesapeake Bay State, containing—

''(I) a summary of an interagency crosscut budget that displays—

''(aa) the proposed funding for any Federal restoration activity to be carried out during the following fiscal year, including any planned interagency or intraagency transfer, for each Federal agency that carries out restoration activities;

''(bb) to the extent that information is available, the estimated funding for any State restoration activity to be carried out during the following fiscal year;

''(cc) all expenditures for Federal restoration activities during the preceding 3-fiscal-year period, the current fiscal year, and the following fiscal year; and

''(dd) all expenditures, to the extent that information is available, for State restoration activities during the equivalent time period described in item (cc);

''(II) a detailed accounting of all funds received and obligated by all Federal agencies for restoration activities during the current and preceding fiscal years, including the identification of funds that were transferred to a Chesapeake Bay State for restoration activities;

''(III) to the extent that information is available, a detailed accounting from each State of all funds received and obligated from a Federal agency for restoration activities during the current and preceding fiscal years; and

''(IV) a description of each proposed Federal and State restoration activity to be carried out during the following fiscal year, as those activities correspond to the activities described in items (aa) and (bb) of subclause (I);

''(ii) an annual progress report that—

''(I) assesses the key ecological attributes that reflect the health of the Chesapeake Basin ecosystem;

''(II) reviews indicators of environmental conditions in the Chesapeake Bay;

''(III) distinguishes between the health of the Chesapeake Basin ecosystem and the results of management measures;

''(IV) assesses implementation of the action plan during the preceding fiscal year;

''(V) recommends steps to improve progress in restoring and protecting the Chesapeake Bay and tributaries; and

''(VI) describes how Federal funding and actions will be coordinated with the actions of States, basin commissions, and others; and

''(iii) an annual report, detailed at the State and sector level where applicable, submitted by the Administrator to the Chesapeake Basin States and the public on specific recently completed, pending, or proposed regulations, guidance documents, permitting requirements, enforcement actions, and other activities carried out in accordance with the Executive Order, including actions relating to the Chesapeake Bay TMDL and State watershed implementation plans; and

''(B) submit each report described in subparagraph (A) to—

''(i) the Committees on Agriculture, Appropriations, Natural Resources, Energy and Commerce, and Transportation and Infrastructure of the House of Representatives; and

''(ii) the Committees on Agriculture, Nutrition, and Forestry, Appropriations, Environment and Public Works, and Commerce, Science, and Transportation of the Senate; and

''(2) create and maintain, with the concurrence of the Secretary of Agriculture, a Chesapeake Basin-wide database containing comprehensive data on implementation of agricultural conservation management practices in the Chesapeake Basin that—

''(A) includes conservation management practice implementation data, including, to the maximum extent feasible, all publicly and privately funded conservation practices, as of the effective date of the Chesapeake Clean Water and Ecosystem Restoration Act;

''(B) includes data on subsequent conservation management practice implementation projects funded by, or reported to, the Department of Agriculture, the appropriate department of any Chesapeake Basin State, a local soil and water conservation district, or any similar institution;

''(C) except with respect to data associated with a permit or recorded in the trading registry, as provided in subsection (j)(6)(B)(vii), presents the required data to the Administrator in statistical or aggregate form without identifying any—

''(i) individual owner, operator, or producer; or

''(ii) specific data gathering site;

''(D) is made available to the public not later than December 31, 2010; and

''(E) is updated not less frequently than once every 2 years.

''(h) CHESAPEAKE BASIN PROGRAM.—

''(1) MANAGEMENT STRATEGIES.—The Administrator, in coordination with other members of the Chesapeake Executive Council, shall ensure that management plans are developed and implemented by Chesapeake Basin States to achieve and maintain—

''(A) for each of the Chesapeake Basin States—

''(i) the sediment, nitrogen, and phosphorus goals of the Chesapeake Bay Agreement for the quantity of sediment, nitrogen, and phosphorus entering the Chesapeake Bay and the tidal tributaries of the Chesapeake Bay; and

''(ii) the water quality requirements necessary to restore living resources in the Chesapeake Bay and the tidal tributaries of the Chesapeake Bay; and

''(B) for the signatory States—

''(i) the Chesapeake Bay Basinwide Toxins Reduction and Prevention Strategy goal of reducing or eliminating the input of chemical contaminants from all controllable sources to levels that result in no toxic or bioaccumulative impact on the living resources of the Chesapeake Basin ecosystem or on human health;

''(ii) habitat restoration, protection, creation, and enhancement goals established by Chesapeake Bay Agreement for wetland, riparian forests, and other types of habitat associated with the Chesapeake Basin ecosystem; and

''(iii) the restoration, protection, creation, and enhancement goals established by the Chesapeake Bay Agreement for living resources associated with the Chesapeake Basin ecosystem.

''(2) CHESAPEAKE BASIN STEWARDSHIP FINANCIAL ASSISTANCE AWARDS PROGRAM.—The Administrator, in cooperation with the Chesapeake Executive Council, shall—

''(A) establish a Chesapeake Basin Stewardship Financial Assistance Program; and

''(B) in carrying out that program—

''(i) offer technical assistance and financial assistance under subsection (d) to States (or designees of States), local governments, soil conservation districts, institutions of higher education, nonprofit organizations, basin commissions, and private entities in the Chesapeake Basin region to implement—

''(I) cooperative watershed strategies that address the water quality, habitat, and living resource needs in the Chesapeake Basin;

''(II) locally based protection and restoration programs or projects within a watershed that complement the State watershed implementation plans, including the creation, restoration, or enhancement of habitat associated with the Chesapeake Basin ecosystem;

''(III) activities for increased spawning and other habitat for migratory fish by removing barriers or constructing fish passage devices, restoring streams with high habitat potential for cold water fisheries such as native brook trout, or other habitat enhancements for fish and waterfowl;

''(IV) activities for increased recreational access to the Chesapeake Bay and the tidal rivers and freshwater tributaries of the Chesapeake Bay; and

''(V) innovative nitrogen, phosphorus, or sediment reduction efforts; and

''(ii) give preference to cooperative projects that involve local governments, soil conservation districts, and sportsmen associations, especially cooperative projects that involve public-private partnerships.

''(i) ACTIONS BY STATES.—

''(1) WATERSHED IMPLEMENTATION PLANS.—

''(A) PLANS.—

''(i) IN GENERAL.—Not later than November 1, 2011, each Chesapeake Basin State, after providing for reasonable notice and 1 or more public meetings, may submit to the Administrator for approval a watershed implementation plan for the Chesapeake Basin State.

''(ii) TARGETS.—The watershed implementation plan shall establish reduction targets, key actions, and schedules for reducing, to levels that will attain water quality standards, the loads of nitrogen, phosphorus, and sediment, including pollution from—

''(I) point sources, including point source stormwater discharges; and

''(II) nonpoint sources.

''(iii) POLLUTION LIMITATIONS.—

''(I) IN GENERAL.—The pollution limitations shall be the nitrogen, phosphorus, and sediment load and wasteload allocations sufficient to meet and maintain Chesapeake Bay and Chesapeake Bay tidal segment water quality standards.

''(II) STRINGENCY.—A watershed implementation plan shall be designed to attain, at a minimum, the pollution limitations described in subclause (I).

''(iv) PLAN REQUIREMENTS.—Each watershed implementation plan shall—

''(I) include State-adopted management measures, including rules or regulations, permits, consent decrees, and other enforceable or otherwise binding measures, to require and achieve reductions from point and nonpoint pollution sources;

''(II) include programs to achieve voluntary reductions from pollution sources, including an estimate of the funding commitments necessary to implement the programs and a plan for working to secure the funding;

''(III) include any additional requirements or actions that the Chesapeake Basin State determines to be necessary to attain the pollution limitations by the deadline established in this paragraph;

''(IV) provide for enforcement mechanisms, including a penalty structure for failures, such as fees or forfeiture of State funds, including Federal funds distributed or otherwise awarded by the State to the extent the State is authorized to exercise independent discretion in amounts of such distributions or awards, for use in case a permittee, local jurisdictions, or any other party fails to adhere to assigned pollutant limitations, implementation schedules, or permit terms;

''(V) include a schedule for implementation that—

''(aa) is divided into 2-year periods, along with computer modeling, or other appropriate analysis, to demonstrate the projected reductions in nitrogen, phosphorus, and sediment loads associated with each 2-year period; and

''(bb) demonstrates reasonable additional progress toward achievement of the goals described in—

''(AA) subclause (VIII)(aa); and

''(BB) clauses (i) and (ii) of subparagraph (B);

''(VI) include the stipulation of alternate actions as contingencies;

''(VII) account for how the Chesapeake Basin State will address additional loadings from new or expanded sources of pollution through reserved allocations, offsets, planned future controls, implementation of new technologies, or other actions;

''(VIII) provide assurances that—

''(aa) if compared to modeled estimated loads during calendar year 2008, the initial plan shall be designed to achieve, not later than May 31, 2017, at least 60 percent of the nitrogen, phosphorus, and sediment reduction requirements described in clause (iii)(I);

''(bb) the Chesapeake Basin State will have adequate personnel and funding (or a plan to secure such personnel or funding), and authority under State (and, as appropriate, local) law to carry out the implementation plan, and is not prohibited by any provision of Federal or State law from carrying out the implementation plan; and

''(cc) to the extent that a Chesapeake Basin State has relied on a local government for the implementation of any plan provision, the Chesapeake Basin State has the responsibility for ensuring adequate implementation of the provision;

''(IX) include adequate provisions for public participation; and

''(X) upon the approval of the Administrator, be made available to the public on the Internet.

''(B) IMPLEMENTATION.—

''(i) IN GENERAL.—In implementing a watershed implementation plan, each Chesapeake Basin State shall follow a strategy developed by the Administrator for the implementation of adaptive management principles to ensure full implementation of all plan elements by not later than May 12, 2025, including—

''(I) biennial evaluations of State actions;

''(II) progress made toward implementation;

''(III) determinations of necessary modifications to future actions in order to achieve objectives including achievement of water quality standards; and

''(IV) appropriate provisions to adapt to climate changes.

''(ii) DEADLINE.—Not later than May 12, 2025, each Chesapeake Basin State shall—

''(I) fully implement the watershed implementation plan of the State; and

''(II) have in place all the mechanisms outlined in the plan that are necessary to attain the applicable pollutant limitations for nitrogen, phosphorus, and sediments.

''(C) PROGRESS REPORTS.—Not later than May 12, 2014, and biennially thereafter, each Chesapeake Basin State shall submit to the Administrator a progress report that, with respect to the 2-year period covered by the report—

''(i) includes a listing of all management measures that were to be implemented in accordance with the approved watershed implementation plan of the Chesapeake Basin State, including a description of the extent to which those measures have been fully implemented;

''(ii) includes a listing of all the management measures described in clause (i) that the Chesapeake Basin State has failed to fully implement in accordance with the approved watershed implementation plan of the Chesapeake Basin State;

''(iii) includes monitored and collected water quality data;

''(iv) includes appropriate computer modeling data or other appropriate analyses that detail the nitrogen, phosphorus, and sediment load reductions projected to be achieved as a result of the implementation of the management measures and mechanisms carried out by the Chesapeake Basin State;

''(v) demonstrates reasonable additional progress made by the State toward achievement of the requirements and deadlines described in subparagraph (A)(iv)(VIII)(aa) and clauses (i) and (ii) of subparagraph (B);

''(vi) includes, for the subsequent 2-year period, implementation goals and Chesapeake Basin Program computer modeling data detailing the projected pollution reductions to be achieved if the Chesapeake Basin State fully implements the subsequent round of management measures;

''(vii) identifies compliance information, including violations, actions taken by the Chesapeake Basin State to address the violations, and dates, if any, on which compliance was achieved; and

''(viii) specifies any revisions to the watershed implementation plan submitted under this paragraph that the Chesapeake Basin State determines are necessary to attain the applicable pollutant limitations for nitrogen, phosphorus, and sediments.

''(2) ISSUANCE OF PERMITS.—

''(A) IN GENERAL.—Notwithstanding any other provision of this Act (including any exclusion or exception contained in a definition under section 502) and in accordance with State laws (including regulations), after providing appropriate opportunities for public comment, for the purpose of achieving the nitrogen, phosphorus, and sediment reductions required under a watershed implementation plan, a Chesapeake Basin State, or, if the State is not authorized to administer the permit program under section 402, the Administrator, may impose limitations or other controls, including permit requirements, on any discharge or runoff from a pollution source, including point and nonpoint sources, located within the Chesapeake Basin State that the program administrator determines to be necessary.

''(B) ENFORCEMENT.—The Chesapeake Basin States and the Administrator shall enforce any permits issued in accordance with the watershed implementation plan in the same manner as permits issued under section 402 are enforced.

''(3) AGRICULTURAL AND PRIVATE FORESTLAND ASSURANCE STANDARDS.—A conservation plan adopted by a Chesapeake Basin State under subsection (h) of section 1240Q of the Food Security Act of 1985 (16 U.S.C. 3839bb–4) shall be considered to be compliance assurance for an agricultural or private forest landowner under that section (16 U.S.C. 3839bb–4) if—

''(A) the plan fully recognizes and takes into consideration all obligations imposed by this Act;

''(B) the State in which the land is located has allocated and scheduled a portion of the reduction in the Chesapeake Bay TMDL to relevant landowners for purposes of meeting the load reduction in pollutants required for that watershed under the Chesapeake Bay TMDL or an approved State management plan under subsection (h) or this subsection;

''(C) the scheduled reductions in pollutants allocated to the relevant landowners and projected to be achieved by the conservation practices of the landowners have been certified by an independent auditing authority

that is in compliance with the guidelines established by the Secretary of Agriculture pursuant to section 1240Q of the Food Security Act of 1985 (16 U.S.C. 3839bb–4) and approved by the State;

''(D) implementation of the conservation plan is certified not less frequently than once every 2 years after the date of initial certification by an independent auditing authority that is in compliance with the guidelines established by the Secretary of Agriculture pursuant to section 1240Q of the Food Security Act of 1985 (16 U.S.C. 3839bb–4) and approved by the State; and

''(E) the State management plan under subsection (h) or the watershed implementation plan under this subsection contains compliance mechanisms, including a penalty structure (such as fees or forfeiture of Federal or State funds that would otherwise be awarded) determined to be adequate by the Administrator in case of failure to develop or fully implement a conservation plan.

''(4) STORMWATER PERMITS.—

''(A) IN GENERAL.—Effective beginning on January 1, 2013, the Chesapeake Basin State shall provide assurances to the Administrator that—

''(i) the owner or operator of any development or redevelopment project possessing an impervious footprint that exceeds a threshold to be determined by the Administrator through rulemaking, will use site planning, design, construction, and maintenance strategies for the property to maintain or restore, to the maximum extent technically feasible, the predevelopment hydrology of the property with regard to the temperature, rate, volume, and duration of flow, using onsite infiltration, evapotranspiration, and reuse approaches, if feasible; and

''(ii) as a further condition of permitting such a development or redevelopment, the owner or operator of any development or redevelopment project possessing an impervious footprint that exceeds a threshold to be determined by the Administrator through rulemaking will compensate for any unavoidable impacts to the predevelopment hydrology of the property with regard to the temperature, rate, volume, and duration of flow, such that—

''(I) the compensation within the affected subwatershed shall provide in-kind or out-of-kind mitigation of function at ratios to be determined by the Administrator through rulemaking;

''(II) the compensation outside the affected subwatershed shall provide in-kind or out-of-kind mitigation, at ratios to be determined by the Administrator through rulemaking, within the tributary watershed in which the project is located; and

''(III) if mitigation of unavoidable impacts is not feasible, the Administrator may approve stringent fee-in-lieu systems.

''(B) REGULATIONS.—

''(i) IN GENERAL.—Not later than November 19, 2012, the Administrator shall promulgate regulations that—

''(I) define the term 'predevelopment hydrology' for purposes of subparagraph (A);

''(II) establish the thresholds under subparagraph (A);

''(III) establish the compensation ratios under items (I) and (II) of subparagraph (A)(ii); and

''(IV) establish the fee-in-lieu systems under subparagraph (A)(ii)(III).

''(ii) REQUIREMENT.—In developing the regulations under clause (i), including establishing minimum standards for new development and redevelopment, the Administrator shall take into consideration, based on an evaluation of field science and practice, factors such as—

''(I) the benefit to—

''(aa) overall watershed protection and restoration of redevelopment of brownfields or other previously developed or disturbed sites; and

''(bb) water quality improvement through lot-level stormwater management.

''(iii) TREATMENT OF PENDING STORMWATER PERMITS.—In consultation with the Chesapeake Basin States and interested stakeholders, and taking into consideration any compliance schedules developed by any Chesapeake Basin State prior to June 30, 2010, the Administrator shall develop guidance regarding the treatment of pending stormwater permits for the Chesapeake Basin States.

''(C) FAILURE TO PROVIDE ASSURANCES.—If a Chesapeake Basin State that submits a Watershed Implementation Plan under this subsection fails to provide the assurances required under subparagraph (A), effective beginning on May 12, 2013, the Administrator may withhold funds otherwise available to the Chesapeake Basin State under this Act, in accordance with subparagraphs (A) and (B) of subsection (j)(5).

''(5) PHOSPHATE BAN.—

''(A) PHOSPHORUS IN CLEANING AGENTS.—Each Chesapeake Basin State shall provide to the Administrator, not later than 3 years after the date of enactment of the Chesapeake Clean Water and Ecosystem Restoration Act, assurances that within the jurisdiction, except as provided in subparagraph (B), a person may not use, sell, manufacture, or distribute for use or sale any cleaning agent that contains more than 0.0 percent phosphorus by weight, expressed as elemental phosphorus, except for a quantity not exceeding 0.5 percent phosphorus that is incidental to the manufacture of the cleaning agent.

''(B) PROHIBITED QUANTITIES OF PHOSPHORUS.—Each Chesapeake Basin State shall provide to the Administrator, not later than 3 years after the date of enactment of the Chesapeake Clean Water and Ecosystem Restoration Act, assurances that, within the jurisdiction, a person may use, sell, manufacture, or distribute for use or sale a cleaning agent that contains greater than 0.0 percent phosphorus by weight, but does not exceed 8.7 percent phosphorus by weight, if the cleaning agent is a substance that the Administrator, by regulation, excludes from the limitation under subparagraph (A), based on a finding that compliance with that subparagraph would—

''(i) create a significant hardship on the users of the cleaning agent; or

''(ii) be unreasonable because of the lack of an adequate substitute cleaning agent.

''(C) FAILURE TO PROVIDE ASSURANCES.—If a Chesapeake Basin State that submits a Watershed Implementation Plan under this subsection fails to provide the necessary assurances under subparagraphs (A) and (B) by not later than 3 years after the date of enactment of the Chesapeake Clean Water and Ecosystem Restoration Act, the Administrator may withhold funds otherwise available to the Chesapeake Basin State under this Act, in accordance with subparagraphs (A) and (B) of subsection (j)(5).

''(j) ACTION BY ADMINISTRATOR.—

''(1) IN GENERAL.—Not later than 60 days after the date of enactment of the Chesapeake Clean Water and Ecosystem Restoration Act, the Administrator shall establish any minimum criteria that the Administrator determines to be necessary that any proposed watershed implementation plan must meet before the Administrator may approve such a plan.

''(2) COMPLETENESS FINDING.—Not later than 60 days after the date on which the Administrator receives a new or revised proposed watershed implementation plan from a Chesapeake Basin State, or not later than 60 days after the date of enactment of the Chesapeake Clean Water and Ecosystem Restoration Act (if the Basin State has already submitted a watershed implementation plan), the Administrator shall make a completeness determination based on whether the minimum criteria for the plan established under paragraph (1) have been met.

''(3) APPROVAL AND DISAPPROVAL.—

''(A) DEADLINE.—Not later than 90 days after determining that a watershed implementation plan meets minimum completeness criteria in accordance with paragraph (2), the Administrator shall approve or disapprove the plan.

''(B) FULL AND PARTIAL APPROVAL AND DISAPPROVAL.—In carrying out this paragraph, the Administrator shall—

''(i) approve a watershed implementation plan if the Administrator determines that the plan meets all applicable requirements under subsection (i)(1); and

''(ii) approve the plan in part and disapprove the plan in part if only a portion of the watershed implementation plan meets those requirements.

''(C) CONDITIONAL APPROVAL.—The Administrator shall—

''(i) conditionally approve the original or a revised watershed implementation plan based on a commitment of the Chesapeake Basin State submitting the plan to adopt specific enforceable management measures by not later than 1 year after the date of approval of the plan revision; but

''(ii) treat a conditional approval as a disapproval under this paragraph if the Chesapeake Basin State fails to comply with the commitment of the Chesapeake Basin State.

''(D) SCOPE OF REVIEW.—In reviewing watershed implementation plans for approval or disapproval, the Administrator shall—

''(i) ensure the completeness of the plan submission pursuant to subsection (i)(1)(A)(iv);

''(ii) limit any additional review to the adequacy of the plan to attain water quality standards; and

''(iii) not impose, as a condition of approval, any additional requirements.

''(E) FULL APPROVAL REQUIRED.—An original or revised watershed implementation plan shall not be treated as meeting the requirements of this section until the Administrator approves the entire original or revised plan.

''(F) CORRECTIONS.—In any case in which the Administrator determines that the action of the Administrator approving, disapproving, or conditionally approving any original or revised State watershed implementation plan was in error, the Administrator shall—

''(i) in the same manner as the approval, disapproval, conditional approval, or promulgation, revise the action of the Administrator, as appropriate, without requiring any further submission from the Chesapeake Basin State; and

''(ii) make the determination of the Administrator, and the basis for that determination, available to the public.

''(G) EFFECTIVE DATE.—The provisions of a State watershed implementation plan shall take effect upon the date of approval of the plan.

''(4) CALLS FOR PLAN REVISION.—In any case in which the Administrator determines that watershed implementation plan for any area is inadequate to attain or maintain applicable pollution limitations, the Administrator—

''(A) shall notify the Chesapeake Basin State of, and require the Chesapeake Basin State to revise the plan to correct the inadequacies;

''(B) may establish reasonable deadlines (not to exceed 180 days after the date on which the Administrator provides the notification) for the submission of a revised watershed implementation plan;

''(C) shall make the findings of the Administrator under paragraph (3) and notice provided under subparagraph (A) public;

''(D) shall require as an element of any revised plan by the Chesapeake Basin State that the State adhere to the requirements applicable under the original watershed implementation plan, except that the Administrator may adjust any dates (other than attainment dates) applicable under those requirements, as appropriate; and

''(E) shall disapprove any revised plan submitted by a Chesapeake Basin State that fails to adhere to the requirements described in subparagraph (D).

''(5) FEDERAL IMPLEMENTATION.—If a Chesapeake Basin State that has submitted a watershed implementation plan under subsection (i)(1)(A)(i) fails to submit a required revised watershed implementation plan, submit a biennial report, correct a previously missed 2-year commitment made in a watershed implementation plan, or remedy a disapproval of a watershed implementation plan, the Administrator shall, by not later than 30 days after the date of the failure and after issuing a notice to the State and providing a period of not less than 1 year during which the failure may be corrected—

''(A) notwithstanding sections 601(a) and 603(g), reserve up to 75 percent of the amount of the capitalization grant to the Chesapeake Basin State for a water pollution control revolving fund under section 603 for activities that are—

''(i) selected by the Administrator; and

''(ii) consistent with the watershed implementation plans described in subparagraph (C);

''(B) withhold all funds otherwise available to the Chesapeake Basin State (or a designee) under this Act, except for the funds available under title VI;

''(C) develop and administer the watershed implementation plan for the Chesapeake Basin State until the Chesapeake Basin State has remedied the plan, reports, or achievements to the satisfaction of the Administrator;

''(D) in addition to requiring compliance with all other statutory and regulatory requirements, require that all permits issued under section 402 for new or expanding discharges of nitrogen, phosphorus, or sediment shall acquire offsets that exceed, by a ratio to be determined by the Administrator through rulemaking, the quantities of nitrogen, phosphorus, or sediment that would be discharged under the permit, taking into account attenuation, equivalency, and uncertainty; and

''(E) for the purposes of developing and implementing a watershed implementation plan under subparagraph (C)—

''(i) incorporate into the Federal plan all applicable requirements for nonpoint sources included as part of the most recently approved watershed implementation plan of the Chesapeake Basin State;

''(ii) issue such permits to point sources as the Administrator determines to be necessary to control discharges sufficient to meet the pollution reductions required to meet applicable water quality standards;

''(iii) enforce such nonpoint source requirements under Federal law in the same manner and with the same stringency as required under most recently approved watershed implementation plan of the Chesapeake Basin State; and

''(iv) enforce such point source permits in the same manner as other permits issued under section 402 are enforced.

''(6) NITROGEN, PHOSPHORUS, AND SEDIMENT TRADING PROGRAMS.—

''(A) ESTABLISHMENT.—Not later than May 12, 2012, the Administrator, in cooperation with the Secretary of Agriculture and each Chesapeake Basin State, shall establish, by regulation, an interstate nitrogen and phosphorus trading program for the Chesapeake Basin for the generation, trading, and use of nitrogen and phosphorus credits to facilitate the attainment and maintenance of water quality standards in the Chesapeake Bay and the Chesapeake Bay tidal segments.

''(B) TRADING SYSTEM.—The trading program established under this subsection shall, at a minimum—

''(i) define and standardize nitrogen and phosphorus credits and establish procedures or standards for ensuring equivalent water quality benefits for all credits;

''(ii) establish procedures or standards for certifying, verifying, and enforcing nitrogen and phosphorus credits to ensure that credit-generating practices from both point sources and nonpoint sources are achieving actual reductions in nitrogen and phosphorus, including provisions for allowing the use of third parties to verify and certify credits sold within and across State lines;

''(iii) establish procedures or standards for generating, quantifying, trading, and applying credits to meet regulatory requirements and allow for trading to occur between and across point source or nonpoint sources, including a requirement that purchasers of credits that propose to satisfy all or part of the obligation to reduce nitrogen and phosphorus through the use of credits shall compensate in a timely manner, through further limitations on the discharges of the purchaser or through a new trade, for any deficiency in those reductions that results from the failure of a credit seller to carry out any activity that was to generate the credits;

''(iv) establish baseline requirements that a credit seller shall meet before becoming eligible to generate saleable credits, which shall be at least as stringent as applicable water quality standards, total maximum daily loads (including applicable wasteload and load allocations), and watershed implementation plans;

''(v) ensure that credits and trade requirements are incorporated, directly or by reference, into enforceable permit requirements under the more stringent of the national pollutant discharge elimination system established under section 402 or the system of the applicable State permitting authority, for all credit purchasers covered by the permits;

''(vi) ensure that private contracts between credit buyers and credit sellers contain adequate provisions to ensure enforceability under applicable law;

''(vii) establish procedures or standards to ensure public transparency for all nitrogen and phosphorus trading activities, including the establishment of a publicly available trading registry, which shall include—

''(I) the information used in the certification and verification process; and

''(II) recorded trading transactions (such as the establishment, sale, amounts, and use of credits);

''(viii) in addition to requiring compliance with all other statutory and regulatory requirements, ensure that, in any case in which a segment of the Chesapeake Basin is impaired with respect to nitrogen and phosphorus being traded and a total maximum daily load for that segment has not yet been implemented for the impairment—

''(I) trades are required to result in progress toward or the attainment of water quality standards in that segment; and

''(II) credit buyers in that segment may not rely on credits produced outside of the segment;

''(ix) require that the application of credits to meet regulatory requirements under this section not cause or contribute to exceedances of water quality standards, total maximum daily loads, or wasteload or load allocations for affected receiving waters, including avoidance of localized impacts;

''(x) except as part of a consent agreement, consent judgment, enforcement order, plea agreement, or sentencing condition, prohibit the purchase of credits from any entity that is in noncompliance with an enforceable permit issued under section 402;

''(xi) consider and incorporate, to the extent consistent with the minimum requirements of this Act, as determined by the Administrator, in consultation with the Secretary of Agriculture, elements of State trading programs in existence on the date of enactment of the Chesapeake Clean Water and Ecosystem Restoration Act;

''(xii) allow for, as appropriate, the aggregation and banking of credits by third parties;

''(xiii) provide, to the maximum extent practicable, that credit-generating practices are achieving equivalent reductions in nitrogen and phosphorus before using the credits; and

''(xiv) provide for appropriate temporal consistency between the time period during which the credit is generated and the time period during which the credit is used.

''(C) FACILITATION OF TRADING.—In order to attract market participants and facilitate the cost-effective achievement of water-quality goals, the Administrator, in consultation with the Secretary of Agriculture, shall ensure that the trading program established under this paragraph—

''(i) includes measures to mitigate credit buyer risk;

''(ii) makes use of the best available science in order to minimize uncertainty and related transaction costs to traders by supporting research and other activities that increase the scientific understanding of nonpoint nitrogen and phosphorus pollutant loading and the ability of various structural and nonstructural alternatives to reduce the loads;

''(iii) eliminates unnecessary or duplicative administrative processes; and

''(iv) incorporates a permitting approach under the national pollutant discharge elimination system established under section 402 that—

''(I) allows trading to occur without requiring the reopening or reissuance of the base permits to incorporate individual trades; and

''(II) incorporates any such trades, directly through a permit amendment or addendum, or indirectly by any appropriate mechanism, as enforceable terms of those permits on approval of the credit purchase by the permitting authority, in accordance with the requirements of the Chesapeake Basin Program, this Act, and regulations promulgated pursuant to this Act.

''(D) SEDIMENT TRADING.—

''(i) IN GENERAL.—Not later than 180 days after the date of enactment of the Chesapeake Clean Water and Ecosystem Restoration Act, the Administrator, in consultation with the Secretary of Agriculture, shall convene a task force, to be composed of representatives from the Chesapeake Basin States and public and private entities—

''(I) to identify any scientific, technical, or other issues that would hinder the rapid deployment of an interstate sediment trading program; and

''(II) to provide to the Administrator recommendations to overcome any of the obstacles to rapid deployment of such a trading system.

''(ii) INTERSTATE SEDIMENT TRADING PROGRAM.—

''(I) ESTABLISHMENT.—Based on the recommendations of the task force established under clause (i), the Administrator, in cooperation with each Chesapeake Basin State, shall establish an interstate sediment trading program for the Chesapeake Basin for the generation, trading, and use of sediment credits to facilitate the attainment and maintenance water quality standards in the Chesapeake Bay and the Chesapeake Bay tidal segments.

''(II) REQUIREMENT.—The interstate sediment trading program established under subclause (I) shall include, at a minimum, definitions, procedures, standards, requirements, assurances, allowances, prohibitions, and evaluations comparable to the interstate nitrogen and phosphorus trading program established under subparagraph (A).

''(III) DEADLINE.—Upon a finding of the Administrator, based on the recommendation of the task force established under clause (i), that such a sediment trading program would substantially advance the achievement of Bay water quality objectives and would be feasible, the interstate trading program under this clause shall be established by the later of—

''(aa) May 12, 2014; and

''(bb) the date on which each issue described in clause (i) can be feasibly overcome.

''(E) EVALUATION OF TRADING.—

''(i) REPORTS.—Not less frequently than once every 5 years after the date of establishment of the interstate nitrogen and phosphorus trading program under this paragraph, the Administrator shall submit to Congress a report describing the results of the program with respect to enforceability, transparency, achievement of water quality results, and whether the program has resulted in any localized water pollution problem.

''(ii) IMPROVEMENTS.—Based on the reports under clause (i), the Administrator shall make improvements to the trading program under this paragraph to ensure achievement of the environmental and programmatic objectives of the program.

''(F) EFFECT ON OTHER TRADING SYSTEMS.—Nothing in this paragraph affects the ability of a State to establish or implement an applicable intrastate trading program.

''(7) AUTHORITY RELATING TO DEVELOPMENT.—The Administrator shall—

''(A) establish, for projects resulting in impervious development, guidance relating to site planning, design, construction, and maintenance strategies to ensure that the land maintains predevelopment hydrology with regard to the temperature, rate, volume, and duration of flow;

''(B) compile a database of best management practices, model stormwater ordinances, and guidelines with respect to the construction of low-impact development infrastructure and nonstructural low-impact development techniques for use by States, local governments, and private entities; and

''(C) not later than 180 days after promulgation of the regulations under subsection (i)(4)(B), issue guidance, model ordinances, and guidelines to carry out this paragraph.

''(8) ASSISTANCE WITH RESPECT TO STORMWATER DISCHARGES.—

''(A) FINANCIAL ASSISTANCE AWARD PROGRAM.—The Administrator may enter into financial assistance agreements with any local government within the Chesapeake Basin that adopts the guidance, best management practices, ordinances, and guidelines issued and compiled under paragraph (7).

''(B) USE OF FUNDS.—A financial assistance agreement provided under subparagraph (A) may be used by a local government to pay costs associated with—

''(i) developing, implementing, and enforcing the guidance, best management practices, ordinances, and guidelines issued and compiled under paragraph (7); and

''(ii) implementing projects designed to reduce or beneficially reuse stormwater discharges.

''(9) CONSUMER AND COMMERCIAL PRODUCT REPORT.—Not later than 3 years after the date of enactment of the Chesapeake Clean Water and Ecosystem Restoration Act, the Administrator, in consultation with the Chesapeake Executive Council, shall—

''(A) review consumer and commercial products (such as lawn fertilizer), the use of which may affect the water quality of the Chesapeake Basin or associated tributaries, to determine whether further product nitrogen and phosphorus content restrictions are necessary to restore or maintain water quality in the Chesapeake Basin and those tributaries; and

''(B) submit to the Committees on Appropriations, Environment and Public Works, and Commerce, Science, and Transportation of the Senate and the Committees on Appropriations, Natural Resources, Energy and Commerce, and Transportation and Infrastructure of the House of Representatives a product nitrogen and phosphorus report detailing the findings of the review under subparagraph (A).

''(10) AGRICULTURAL ANIMAL WASTE-TO-BIOENERGY DEPLOYMENT PROGRAM.—

''(A) DEFINITIONS.—In this paragraph:

''(i) AGRICULTURAL ANIMAL WASTE.—The term 'agricultural animal waste' means manure from livestock, poultry, or aquaculture.

''(ii) ELIGIBLE TECHNOLOGY.—The term 'eligible technology' means a technology that converts or proposes to convert agricultural animal waste into—

''(I) heat;

''(II) power; or

''(III) biofuels.

''(B) FINANCIAL ASSISTANCE AGREEMENT PROGRAM.—The Administrator, in coordination with the Secretary of Agriculture, may enter into financial assistance agreements with any person or partnership of persons for the purpose of carrying out projects to deploy an eligible technology in agricultural animal waste-to-bioenergy treatment that has significant potential to reduce agricultural animal waste volume, recover nitrogen and phosphorus, improve water quality, decrease pollution potential, and recover energy.

''(C) PROJECT SELECTION.—

''(i) IN GENERAL.—In selecting applicants for financial assistance agreements under this paragraph, the Administrator shall select projects that—

''(I) reduce—

''(aa) impacts of agricultural animal waste on surface and groundwater quality;

''(bb) emissions to the ambient air; and

''(cc) the release of pathogens and other contaminants to the environment; and

''(II) quantify—

''(aa) the degree of waste stabilization to be realized by the project; and

''(bb) nitrogen and phosphorus reduction credits that could contribute to the nitrogen and phosphorus trading program for the Chesapeake Basin under this subsection.

''(ii) PRIORITIZATION.—The Administrator shall prioritize projects based on—

''(I) the level of nitrogen and phosphorus reduction achieved;

''(II) geographical diversity among the Chesapeake Basin States; and

''(III) differing types of agricultural animal waste.

''(D) FEDERAL SHARE.—The amount of a financial assistance awarded under this paragraph shall not exceed 50 percent of the cost of the project to be carried out using funds from the financial assistance award.

''(k) PROHIBITION ON INTRODUCTION OF ASIAN OYSTERS.—Not later than 2 years after the date of enactment of the Chesapeake Clean Water and Ecosystem Restoration Act, the Administrator shall promulgate regulations—

''(1) to designate the Asian oyster as a 'biological pollutant' in the Chesapeake Bay and tidal waters pursuant to section 502;

''(2) to prohibit the issuance of permits under sections 402 and 404 for the discharge of the Asian oyster into the Chesapeake Bay and Chesapeake Bay tidal segments; and

''(3) to specify conditions under which scientific research on Asian oysters may be conducted within the Chesapeake Bay and Chesapeake Bay tidal segments.

''(l) CHESAPEAKE NUTRIA ERADICATION PROGRAM.—

''(1) FINANCIAL ASSISTANCE AUTHORITY.—Subject to the availability of appropriations, the Secretary of the Interior (referred to in this subsection as the 'Secretary'), may provide financial assistance to the States of Delaware, Maryland, and Virginia to carry out a program to implement measures—

''(A) to eradicate or control nutria; and

''(B) to restore marshland damaged by nutria.

''(2) GOALS.—The continuing goals of the program shall be—

''(A) to eradicate nutria in the Chesapeake Basin ecosystem; and

''(B) to restore marshland damaged by nutria.

''(3) ACTIVITIES.—In the States of Delaware, Maryland, and Virginia, the Secretary shall require that the program under this subsection consist of management, research, and public education activities carried out in accordance with the document published by the United States Fish and Wildlife Service entitled 'Eradication Strategies for Nutria in the Chesapeake and Delaware Bay Watersheds', dated March 2002, or any updates to the document.

''(m) REVIEW OF STUDIES ON THE IMPACTS OF MENHADEN ON THE WATER QUALITY OF THE CHESAPEAKE BAY.—

''(1) RESEARCH REVIEW.—The Administrator, in cooperation and consultation with the Administrator of the National Oceanic and Atmospheric Administration, shall—

''(A) prepare a report that reviews and summarizes existing, peer reviewed research relating to the impacts of menhaden on water quality, including the role of menhaden as filter feeders and the impacts on dissolved oxygen levels, nitrogen and phosphorus levels, phytoplankton, zooplankton, detritus, and similar issues by menhaden at various life stages;

''(B) identify important data gaps or additional menhaden population studies, if any, relating to the impacts of the menhaden population on water quality; and

''(C) provide any recommendations for additional research or study.

''(2) REPORT AND RECOMMENDATIONS.—Not later than 5 years after the date of enactment of the Chesapeake Clean Water and Ecosystem Restoration Act, the Administrator shall submit the report and recommendations required in paragraph (1) to—

''(A) the Committee on Commerce, Science, and Transportation and the Committee on Environment and Public Works Committee of the Senate; and

''(B) the Committee on Natural Resources and the Committee on Transportation and Infrastructure Committee of the House of Representatives.

''(n) EFFECT ON OTHER REQUIREMENTS.—

''(1) IN GENERAL.—Nothing in this section removes or otherwise affects any other obligation for a point source to comply with

other applicable requirements under this Act.

''(2) VIOLATIONS BY STATES.—

''(A) ENFORCEMENT ACTION BY ADMINISTRATOR.—The failure of a Chesapeake Basin State that submits a watershed implementation plan under subsection (i) to submit a biennial report, meet or correct a previously missed 2-year commitment made in a watershed implementation plan, or implement a watershed implementation plan or permit program under this section shall—

''(i) constitute a violation of this Act; and

''(ii) subject the State to an enforcement action by the Administrator.

''(B) ENFORCEMENT ACTION BY CITIZENS.—

''(i) IN GENERAL.—The failure of a Chesapeake Basin State that submits a watershed implementation plan under subsection (i) to meet or correct a previously missed 2-year commitment made in a watershed implementation plan or implement a watershed implementation plan or permit program under this section shall subject the appropriate State officer to a civil action seeking injunctive relief commenced by a citizen on behalf of the citizen.

''(ii) JURISDICTION, VENUE, NOTICE, AND LITIGATION COSTS.—

''(I) IN GENERAL.—A citizen may commence a civil action on behalf of the citizen against a State under clause (i), subject to the requirements for notice, venue, and intervention described in subsections (b) and (c) of section 505 for a suit brought under section 505(a)(1)(A).

''(II) JURISDICTION.—Jurisdiction over a suit brought under subclause (I) shall be the district courts, as described in section 505(a).

''(III) LITIGATION COSTS.—The court may award litigation costs for suit brought under subclause (I), as described in section 505(d).

''(iii) SAVINGS CLAUSE.—Nothing in this subsection affects the ability of a citizen to bring an action for civil enforcement on behalf of the citizen under section 505.

''(o) GOVERNMENT AND INDEPENDENT EVALUATIONS.—

''(1) INSPECTORS GENERAL REVIEWS.—

''(A) IN GENERAL.—The Inspectors General of the Environmental Protection Agency and the Department of Agriculture shall jointly evaluate and submit to Congress reports describing the implementation of this section not less frequently than once every 3 years.

''(B) INCLUSIONS.—Each report under subparagraph (A) shall include an assurance that, with respect to the period covered by the report—

''(i) funds authorized for the restoration activities were distributed and used in a manner that are consistent with the objectives of improving the water quality in the Chesapeake Bay ecosystem;

''(ii) mechanisms were in place to ensure that restoration activities are properly implemented;

''(iii) mechanisms were in place to ensure that progress toward water quality goals for the Chesapeake Bay ecosystem are achieved;

''(iv) the allocation of funds reflected the responsibility and contribution of each Chesapeake Bay State toward achieving water quality goals;

''(v) restoration activities were carried out in accordance with this section;

''(vi) the factual information and assumptions incorporated in Chesapeake Bay modeling efforts were accurate; and

''(vii) implementation was adequately tracked and accounted for in Chesapeake Bay modeling efforts, including tracking of privately funded and government-funded practices.

''(2) INDEPENDENT REVIEWS.—

''(A) IN GENERAL.—The Administrator shall enter into a contract with the National Academy of Sciences or the National Academy of Public Administration under which the Academy shall conduct 2 reviews of the Chesapeake Basin restoration efforts under this section.

''(B) INCLUSIONS.—Each review under subparagraph (A) shall include an assessment of—

''(i) progress made toward meeting the goals of this section;

''(ii) efforts by Federal, State, and local governments and the private sector in implementing this section;

''(iii) the methodologies (including computer modeling) and data (including monitoring data) used to support the implementation of this section; and

''(iv) the economic impacts, including—

''(I) a comprehensive analysis of the costs of compliance;

''(II) the benefits of restoration;

''(III) the value of economic losses avoided;

''(IV) a regional analysis of items (I) through (III), by Chesapeake Basin State and by sector, to the maximum extent practicable; and

''(V) an analysis of nitrogen, phosphorus, or sediment credits for future delivery and the impact of that futures trading on nitrogen, phosphorus, or sediment price volatility.

''(C) REPORTS.—The National Academy of Sciences or the National Academy of Public Administration shall submit to the Administrator a report describing the results of the reviews under this paragraph, together with recommendations regarding the reviews (including any recommendations with respect to efforts of the Environmental Protection Agency or any other Federal or State agency required to implement applicable water quality standards in the Chesapeake Basin and achieve those standards in the Chesapeake Bay and Chesapeake Bay tidal segments), if any, by not later than—

''(i) May 12, 2015, with respect to the first review required under this paragraph; and

''(ii) May 12, 2020, with respect to the second review required under this paragraph.

''(p) AUTHORIZATION OF APPROPRIATIONS.—

''(1) CHESAPEAKE BASIN PROGRAM OFFICE.—There is authorized to be appropriated to the Chesapeake Basin Program Office to carry out subsection (b)(2) $20,000,000 for each of fiscal years 2012 through 2017.

''(2) IMPLEMENTATION, MONITORING, AND CENTERS OF EXCELLENCE FINANCIAL ASSISTANCE AWARDS.—

''(A) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized to be appropriated or otherwise made available to carry out this section, there are authorized to be appropriated to the Administrator—

''(i) to carry out a program to establish and support centers of excellence for water quality and agricultural policies and practices under subsection (e)(1)(C), $10,000,000 for each of fiscal years 2012 through 2017;

''(ii) to provide implementation of financial assistance agreements under subsection (e)(3)(A), $80,000,000 for each of fiscal years 2012 through 2017, to remain available until expended;

''(iii) to carry out a freshwater monitoring program under subsection (e)(3)(B), $5,000,000 for each of fiscal years 2012 through 2017;

''(iv) to carry out a Chesapeake Bay and tidal water monitoring program under subsection (e)(3)(B), $5,000,000 for each of fiscal years 2012 through 2017; and

''(v) to carry out the Chesapeake nitrogen and phosphorus trading guarantee pilot program under subsection (e)(1)(D), $20,000,000 for the period of fiscal years 2012 through 2017.

''(B) COST SHARING.—The Federal share of the cost of a program carried out using funds from a financial assistance agreement provided—

''(i) under subparagraph (A)(ii) shall not exceed—

''(I) 80 percent, with respect to funds provided for the provision of technical assistance to agricultural producers and forest owners; and

''(II) with respect to all other activities under that subparagraph—

''(aa) for the States of Delaware, New York, and West Virginia, shall not exceed 75 percent; and

''(bb) for the States of Maryland, Pennsylvania, and Virginia and for the District of Columbia, shall not exceed 50 percent; and

''(ii) under clause (i), (iii), or (iv) of subparagraph (A) shall not exceed 80 percent.

''(3) CHESAPEAKE STEWARDSHIP FINANCIAL ASSISTANCE AWARDS.—There is authorized to be appropriated to carry out subsection (h)(2) $15,000,000 for each of fiscal years 2012 through 2017.

''(4) STORM WATER POLLUTION PLANNING AND IMPLEMENTATION FINANCIAL ASSISTANCE AWARDS.—

''(A) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized or otherwise made available to carry out this section, there are authorized to be appropriated to the Administrator—

''(i) to carry out subsection (j)(8)(B)(i), $10,000,000; and

''(ii) to carry out subsection (j)(8)(B)(ii), $1,500,000,000.

''(B) COST-SHARING.—A financial assistance agreement provided for a project under—

''(i) subsection (j)(8)(B)(i) may not be used to cover more than 80 percent of the cost of the project; and

''(ii) subsection (j)(8)(B)(ii) may not be used to cover more than 75 percent of the cost of the project.

''(5) NUTRIA ERADICATION FINANCIAL ASSISTANCE AWARDS.—

''(A) IN GENERAL.—There is authorized to be appropriated to the Secretary of the Interior to provide financial assistance in the Chesapeake Basin under subsection (l) $4,000,000 for each of fiscal years 2012 through 2017.

''(B) COST-SHARING.—

''(i) FEDERAL SHARE.—The Federal share of the cost of carrying out the program under subsection (l) may not exceed 75 percent of the total costs of the program.

''(ii) IN-KIND CONTRIBUTIONS.—The non-Federal share of the cost of carrying out the program under subsection (l) may be provided in the form of in-kind contributions of materials or services.

''(6) AGRICULTURAL ANIMAL WASTE-TO-BIOENERGY DEPLOYMENT FINANCIAL ASSISTANCE AWARDS.—There is authorized to be appropriated to carry out the agricultural animal waste-to-bioenergy deployment program under subsection (j) $30,000,000 for the period of fiscal years 2012 to 2017, to remain available until expended.

''(7) LIMITATION ON ADMINISTRATIVE COSTS.—Not more than 10 percent of the annual amount of any financial assistance agreement provided by the Administrator or Secretary under any program described in this subsection may be used for administrative costs.

''(8) AVAILABILITY.—Amounts authorized to be appropriated under this subsection shall remain available until expended.

''(q) SEVERABILITY.—A determination that any provision of this section is invalid, illegal, unenforceable, or in conflict with any other law shall not affect the validity, legality, or enforceability of the remaining provisions of this section.

''(r) APPLICABILITY.—

''(1) IN GENERAL.—The authority provided by this section applies solely to Chesapeake Basin States.

''(2) OTHER STATES.—Nothing in this section modifies or otherwise affects any authority provided by this Act with respect to any provision of law (including a regulation) applicable to any other State.''.

SEC. 10273. FEDERAL ENFORCEMENT.

Section 309 of the Federal Water Pollution Control Act (33 U.S.C. 1319) is amended—

(1) in subsection (a)—

(A) in paragraph (1), in the first sentence, by striking ''section 402'' and inserting ''section 117, 402,'';

(B) in paragraph (3), by inserting ''section 117 or'' before ''section 402'';

(2) in subsection (d), in the first sentence, by inserting ''section 117 or'' after ''a permit issued under''; and

(3) in subsection (g)—

(A) in paragraph (1)(A), by inserting ''section 117 or'' before ''section 402''; and

(B) in paragraph (7), by striking ''section 402'' and inserting ''section 117, 402,''.

SEC. 10274. FEDERAL RESPONSIBILITY TO PAY FOR STORMWATER PROGRAMS.

Section 313 of the Federal Water Pollution Control Act (33 U.S.C. 1323) is amended by adding at the end the following:

''(c) REASONABLE SERVICE CHARGES.—Reasonable service charges described in subsection (a) include any reasonable nondiscriminatory fee, charge, or assessment that is—

''(1) based on some fair approximation of the proportionate contribution of the property or facility to stormwater pollution (in terms of quantities of pollutants, or volume or rate of stormwater discharge or runoff from the property or facility); and

''(2) used to pay or reimburse the costs associated with any stormwater management program (whether associated with a separate storm sewer system or a sewer system that manages a combination of stormwater and sanitary waste), including the full range of programmatic and structural costs attributable to collecting stormwater, reducing pollutants in stormwater, and reducing the volume and rate of stormwater discharge, regardless of whether that reasonable fee, charge, or assessment is denominated a tax.''.

SEC. 10275. RELATIONSHIP TO NATIONAL ESTUARY PROGRAM.

Section 320(b) of the Federal Water Pollution Control Act (33 U.S.C. 1330(b)) is amended in the last sentence by inserting ''or section 117'' after ''this section''.

SEC. 10276. SEPARATE APPROPRIATIONS ACCOUNT.

Section 1105(a) of title 31, United States Code, is amended—

(1) by redesignating paragraphs (35) and (36) as paragraphs (36) and (37), respectively;

(2) by redesignating the second paragraph (33) (relating to obligational authority and outlays requested for homeland security) as paragraph (35); and

(3) by adding at the end the following:

''(38) a separate statement for the Chesapeake Nitrogen and Phosphorus Trading Guarantee Fund established under section 117(e)(1)(E) of the Federal Water Pollution Control Act (33 U.S.C. 1267(e)(1)(E)), which shall include the estimated amounts of—

''(A) deposits in the Fund;

''(B) obligations; and

''(C) outlays from the Fund.''.

SEC. 10277. CHESAPEAKE BASIN ASSURANCE STANDARDS.

Section 1240Q of the Food Security Act of 1985 (16 U.S.C. 3839bb–4) is amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following:

''(h) ASSURANCE STANDARDS.—

''(1) DEFINITION OF CHESAPEAKE BASIN STATE.—In this subsection, the term 'Chesapeake Basin State' means any of—

''(A) the States of Delaware, Maryland, New York, Pennsylvania, Virginia, and West Virginia; or

''(B) the District of Columbia.

''(2) PURPOSE.—The purpose of this subsection is to develop environmental assurance standards for use by the Chesapeake Basin States to ensure that agricultural producers and nonindustrial private forest landowners in the Chesapeake Bay watershed are implementing achievable and economically practicable conservation activities, consistent with the water quality standards of the applicable Chesapeake Basin State, that—

''(A) reduce nitrogen, phosphorus, and sediment loads; and

''(B) fulfill water quality requirements under applicable Federal and State law.

''(3) DUTIES OF SECRETARY.—

''(A) IN GENERAL.—The Secretary, using existing partnerships and programs, to the maximum extent practicable, and with the concurrence of the Administrator of the Environmental Protection Agency, shall identify conservation practice standards and other conservation activities, including risk assessment and conservation planning, designed to achieve the nitrogen, phosphorus, and sediment allocations that Chesapeake Basin States can incorporate in—

''(i) a State management plan under section 117(h)(1) of the Federal Water Pollution Control Act (33 U.S.C. 1267(h)(1)); or

''(ii) a State watershed implementation plan under section 117(i) of the Federal Water Pollution Control Act (33 U.S.C. 1267(i)).

''(B) ESTABLISHMENT OF GUIDELINES.—The Secretary shall establish third-party verification and auditing guidelines for Chesapeake Basin States to ensure that activities designed to meet the conservation practice standards under subparagraph (A) are being implemented.

''(C) TECHNICAL ASSISTANCE.—The Secretary shall provide conservation technical assistance—

''(i) to educate agricultural and private forest landowners in the Chesapeake Bay watershed regarding Federal and State regulatory water quality requirements and activities the landowners could carry out—

''(I) to achieve compliance with the requirements; and

''(II) to improve wildlife habitat;

''(ii) to assist those landowners in selecting and implementing conservation activities that will achieve and maintain compliance with Federal and State regulatory water quality requirements; and

''(iii) to support voluntary efforts to improve water quality and wildlife habitat.

''(D) MEMORANDUM OF UNDERSTANDING.—The Secretary may enter into a memorandum of understanding with the Administrator of the Environmental Protection Agency and the Chesapeake Basin States to coordinate conservation planning for agricultural and nonindustrial private forestland to meet applicable Federal and State water quality requirements, including applicable nitrogen, phosphorus, and sediment allocations.

''(4) EFFECT OF ASSURANCE STANDARDS.—

''(A) COMPLIANCE.—Except as provided in subparagraph (B), an agricultural or private forest landowner that is not subject to the requirements of the national pollutant discharge elimination system of section 402 of the Federal Water Pollution Control Act (33 U.S.C. 1342), but that implements all applicable conservation practices or other conservation activities in accordance with a conservation plan adopted under this subsection that meets the requirements of section 117(i)(3) of the Federal Water Pollution Control Act (33 U.S.C. 1267(i)(3)) and any additional State water quality requirements, shall be considered to be in full compliance with the applicable nitrogen, phosphorus, and sediment allocations for the Chesapeake Bay watershed established pursuant to section 303(d) of the Federal Water Pollution Control Act (33 U.S.C. 1313(d)).

''(B) EXCEPTION.—Subparagraph (A) does not apply to any agreement entered into with the Natural Resources Conservation Service regarding a comprehensive nutrient management plan.

''(5) UPDATING PRACTICE STANDARDS, ALLOCATIONS, AND PLANS.—Nothing in this subsection limits the ability of—

''(A) the Secretary or the Administrator of the Environmental Protection Agency to update applicable conservation practice standards;

''(B) the Administrator to update the Chesapeake Bay TMDL (as defined in section 117(a) of the Federal Water Pollution Control Act (33 U.S.C. 1267(a))) or any wasteload allocation or load allocation under the Chesapeake Bay TMDL; or

''(C) the Administrator or any Chesapeake Basin State to update any watershed implementation plan.''.

Subtitle I—San Francisco Bay Restoration

SEC. 10281. SHORT TITLE.

This subtitle may be cited as the ''San Francisco Bay Restoration Act''.

SEC. 10282. SAN FRANCISCO BAY RESTORATION GRANT PROGRAM.

Title I of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) (as amended by section 10243) is amended by adding at the end the following:

''SEC. 126. SAN FRANCISCO BAY RESTORATION GRANT PROGRAM.

''(a) DEFINITIONS.—In this section:

''(1) ANNUAL PRIORITY LIST.—The term 'annual priority list' means the annual priority list compiled under subsection (b).

''(2) COMPREHENSIVE PLAN.—The term 'comprehensive plan' means—

''(A) the comprehensive conservation and management plan approved under section 320 for the San Francisco Bay estuary; and

''(B) any amendments to that plan.

''(3) ESTUARY PARTNERSHIP.—The term 'Estuary Partnership' means the San Francisco Estuary Partnership, the entity that is designated as the management conference under section 320.

''(b) ANNUAL PRIORITY LIST.—

''(1) IN GENERAL.—After providing public notice, the Administrator shall annually compile a priority list identifying and prioritizing the activities, projects, and studies intended to be funded with the amounts made available under subsection (c).

''(2) INCLUSIONS.—The annual priority list compiled under paragraph (1) shall include—

''(A) activities, projects, or studies, including restoration projects and habitat improvement for fish, waterfowl, and wildlife, that advance the goals and objectives of the approved comprehensive plan;

''(B) information on the activities, projects, programs, or studies specified under subparagraph (A), including a description of—

''(i) the identities of the financial assistance recipients; and

''(ii) the communities to be served; and

''(C) the criteria and methods established by the Administrator for selection of activities, projects, and studies.

''(3) CONSULTATION.—In developing the priority list under paragraph (1), the Administrator shall consult with and consider the recommendations of—

''(A) the Estuary Partnership;

''(B) the State of California and affected local governments in the San Francisco Bay estuary watershed; and

''(C) any other relevant stakeholder involved with the protection and restoration of the San Francisco Bay estuary that the Administrator determines to be appropriate.

''(c) GRANT PROGRAM.—

''(1) IN GENERAL.—Pursuant to section 320, the Administrator may provide funding through cooperative agreements, grants, or other means to State and local agencies, and public or nonprofit agencies, institutions, and organizations, including the Estuary Partnership, for activities, studies, or projects identified on the annual priority list.

''(2) MAXIMUM AMOUNT OF GRANTS; NON-FEDERAL SHARE.—

''(A) MAXIMUM AMOUNT OF GRANTS.—Amounts provided to any individual or entity under this section for a fiscal year shall not exceed an amount equal to 75 percent of the total cost of any eligible activities that are to be carried out using those amounts.

''(B) NON-FEDERAL SHARE.—The non-Federal share of the total cost of any eligible activities that are carried out using amounts provided under this section shall be—

''(i) not less than 25 percent; and

''(ii) provided from non-Federal sources.

''(d) FUNDING.—

''(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator to carry out this section $35,000,000 for each of fiscal years 2012 through 2021.

''(2) ADMINISTRATIVE EXPENSES.—Of the amount made available to carry out this section for a fiscal year, the Administrator shall use not more than 5 percent to pay administrative expenses incurred in carrying out this section.

''(3) RELATIONSHIP TO OTHER FUNDING.—Nothing in this section limits the eligibility of the Estuary Partnership to receive funding under section 320(g).

''(4) PROHIBITION.—No amounts made available under subsection (c) may be used for the administration of a management conference under section 320.''.

TITLE CIII—WATER QUALITY PROTECTION AND RESTORATION PROGRAMS

Subtitle A—Clean Coastal Environment and Public Health

SEC. 10301. SHORT TITLE.

This subtitle may be cited as the ''Clean Coastal Environment and Public Health Act of 2010''.

SEC. 10302. FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS.

(a) ADOPTION OF NEW OR REVISED CRITERIA AND STANDARDS.—Section 303(i)(2)(A) of the Federal Water Pollution Control Act (33 U.S.C. 1313(i)(2)(A)) is amended by striking ''paragraph (1)(A)'' each place it appears and inserting ''paragraph (1)''.

(b) REVISED CRITERIA FOR COASTAL RECREATION WATERS.—Section 304(a)(9) of the Federal Water Pollution Control Act (33 U.S.C. 1314(a)(9)) is amended—

(1) in subparagraph (A), by striking ''methods, as appropriate'' and inserting ''methods, including rapid testing methods''; and

(2) by adding at the end the following:

''(C) PUBLICATION OF PATHOGEN AND PATHOGEN INDICATOR LIST.—Upon publication of the new or revised water quality criteria under subparagraph (A), the Administrator shall publish in the Federal Register a list of all pathogens and pathogen indicators studied in developing the new or revised water quality criteria.''.

(c) SOURCE IDENTIFICATION.—

(1) MONITORING PROTOCOLS.—Section 406(a)(1)(A) of the Federal Water Pollution Control Act (33 U.S.C. 1346(a)(1)(A)) is amended by striking ''methods for monitoring'' and inserting ''methods for monitoring protocols that are most likely to detect pathogenic contamination''.

(2) STATE REPORTS; SOURCE TRACKING.—Section 406(b) of the Federal Water Pollution Control Act (33 U.S.C. 1346(b)) is amended—

(A) in paragraph (3)(A)(ii), by striking ''public'' and inserting ''public and all environmental agencies of the State with authority to prevent or treat sources of pathogenic contamination in coastal recreation waters''; and

(B) by adding at the end the following:

''(5) CONTENTS OF MONITORING AND NOTIFICATION PROGRAMS.—For the purposes of this section, a program for monitoring, assessment, and notification shall include, consistent with performance criteria published by the Administrator under subsection (a), monitoring, public notification, source tracking, and sanitary surveys, and may include prevention efforts, not already funded under this Act to address identified sources of contamination by pathogens and pathogen indicators in coastal recreation waters adjacent to beaches or similar points of access that are used by the public.''.

(d) USE OF RAPID TESTING METHODS.—

(1) CONTENTS OF STATE AND LOCAL GOVERNMENT PROGRAMS.—Section 406(c)(4)(A) of the Federal Water Pollution Control Act (33 U.S.C. 1346(c)(4)(A)) is amended by striking ''methods'' and inserting ''methods, including a rapid testing method after the last day of the 1-year period following the date of validation of that rapid testing method by the Administrator,''.

(2) VALIDATION AND USE OF RAPID TESTING METHODS.—

(A) VALIDATION OF RAPID TESTING METHODS.—Not later than October 15, 2012, the Administrator of the Environmental Protection Agency (referred to in this subtitle as the ''Administrator'') shall complete an evaluation and validation of a rapid testing method for the water quality criteria and standards for pathogens and pathogen indicators described in section 304(a)(9)(A) of the Federal Water Pollution Control Act (33 U.S.C. 1314(a)(9)(A)).

(B) GUIDANCE FOR USE OF RAPID TESTING METHODS.—

(i) IN GENERAL.—Not later than 180 days after the date of completion of the validation under subparagraph (A), and after providing notice and an opportunity for public comment, the Administrator shall publish guidance for the use at coastal recreation waters adjacent to beaches or similar points of access that are used by the public of rapid testing methods that will enhance the protection of public health and safety through rapid public notification of any exceedance of applicable water quality standards for pathogens and pathogen indicators.

(ii) PRIORITIZATION.—In developing guidance under clause (i), the Administrator shall require the use of rapid testing methods at those beaches or similar points of access that are the most used by the public.

(3) DEFINITION OF RAPID TESTING METHOD.—Section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362) is amended by adding at the end the following:

''(26) RAPID TESTING METHOD.—The term 'rapid testing method' means a method of testing the water quality of coastal recreation waters for which results are available as soon as practicable and not more than 4 hours after receipt of the applicable sample by the testing facility.''.

(e) NOTIFICATION OF FEDERAL, STATE, AND LOCAL AGENCIES; CONTENT OF STATE AND LOCAL PROGRAMS.—Section 406(c) of the Federal Water Pollution Control Act (33 U.S.C. 1346(c)) is amended—

(1) in paragraph (5)—

(A) in the matter preceding subparagraph (A), by striking ''prompt communication'' and inserting ''communication, within 2 hours of the receipt of the results of a water quality sample,'';

(B) by striking subparagraph (A) and inserting the following:

''(A)(i) in the case of any State in which the Administrator is administering the program under section 402, the Administrator, in such form as the Administrator determines to be appropriate; and

''(ii) in the case of any State other than a State to which clause (i) applies, all agencies of the State government with authority to require the prevention or treatment of the sources of coastal recreation water pollution; and'';

(2) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively;

(3) by inserting after paragraph (5) the following:

''(6) measures for an annual report to the Administrator, in such form as the Administrator determines to be appropriate, on the occurrence, nature, location, pollutants involved, and extent of any exceedance of applicable water quality standards for pathogens and pathogen indicators;'';

(4) in paragraph (7) (as redesignated by paragraph (2))—

(A) by striking ''the posting'' and inserting ''the immediate posting''; and

(B) by striking ''and'' at the end;

(5) in paragraph (8) (as redesignated by paragraph (2)), by striking the period at the end and inserting a semicolon; and

(6) by adding at the end the following:

''(9) the availability of a geographical information system database that the State or local government program shall use to inform the public about coastal recreation waters and that—

''(A) is publicly accessible and searchable on the Internet;

''(B) is organized by beach or similar point of access;

''(C) identifies applicable water quality standards, monitoring protocols, sampling plans and results, and the number and cause of coastal recreation water closures and advisory days; and

''(D) is updated within 24 hours of the availability of revised information;

''(10) measures to ensure that closures or advisories are made or issued within 2 hours after the receipt of the results of a water quality sample exceeding applicable water quality standards for pathogens and pathogen indicators;

''(11) measures that inform the public of identified sources of pathogenic contamination; and

''(12) analyses of monitoring protocols to determine which protocols are most likely to detect pathogenic contamination.''.

(f) NATIONAL LIST OF BEACHES.—Section 406(g) of the Federal Water Pollution Control Act (33 U.S.C. 1346(g)) is amended by striking paragraph (3) and inserting the following:

''(3) UPDATES.—Not later than 1 year after the date of enactment of the Clean Coastal Environment and Public Health Act of 2010, and biennially thereafter, the Administrator shall update the list described in paragraph (1).''.

(g) COMPLIANCE REVIEW.—Section 406(h) of the Federal Water Pollution Control Act (33 U.S.C. 1346(h)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and indenting the subparagraphs appropriately;

(2) by striking ''In the'' and inserting the following:

''(1) IN GENERAL.—In the''; and

(3) by adding at the end the following:

''(2) COMPLIANCE REVIEW.—On or before July 31 of each calendar year beginning 18 months after the date of enactment of the Clean Coastal Environment and Public Health Act of 2010, the Administrator shall—

''(A) prepare a written assessment of compliance with—

''(i) all statutory and regulatory requirements of this section for each State and local government; and

''(ii) conditions of each grant made under this section to a State or local government;

''(B) notify the State or local government of each such assessment; and

''(C) make each of the assessments available to the public in a searchable database on the Internet on or before December 31 of the applicable calendar year.

''(3) CORRECTIVE ACTION.—If a State or local government that the Administrator notifies under paragraph (2) is not in compliance with any requirement or grant condition described in paragraph (2) and fails to take such action as is necessary to comply with the requirement or condition by the date that is 1 year after the date of notification, any grants made under subsection (b) to the State or local government, after the last day of that 1-year period and while the State or local government is not in compliance with all requirements and grant conditions described in paragraph (2), shall have a Federal share of not to exceed 50 percent.

''(4) GAO REVIEW.—Not later than December 31 of the third calendar year beginning after the date of enactment of the Clean Coastal Environment and Public Health Act of 2010, the Comptroller General shall—

''(A) conduct a review of the activities of the Administrator under paragraphs (2) and (3) during the first and second calendar years beginning after that date of enactment; and

''(B) submit to Congress a report on the results of the review.''.

(h) AUTHORIZATION OF APPROPRIATIONS.—Section 406(i) of the Federal Water Pollution Control Act (33 U.S.C. 1346(i)) is amended by striking ''$30,000,000 for each of fiscal years 2001 through 2005'' and inserting ''$60,000,000 for each of fiscal years 2012 through 2016''.

SEC. 10303. FUNDING FOR BEACHES ENVIRONMENTAL ASSESSMENT AND COASTAL HEALTH ACT.

Section 8 of the Beaches Environmental Assessment and Coastal Health Act of 2000 (114 Stat. 877) is amended by striking ''2005'' and inserting ''2015''.

SEC. 10304. STUDY OF GRANT DISTRIBUTION FORMULA.

(a) STUDY.—Not later than 30 days after the date of enactment of this Act, the Administrator shall commence a study of the formula for the distribution of grants under section 406 of the Federal Water Pollution Control Act (33 U.S.C. 1346) for the purpose of identifying potential revisions of that formula.

(b) CONTENTS.—In conducting the study under this section, the Administrator shall take into consideration—

(1) the base cost to States of developing and maintaining water quality monitoring and notification programs;

(2) the varied beach monitoring and notification needs of the States, including beach mileage, beach usage, and length of beach season; and

(3) other factors that the Administrator determines to be appropriate.

(c) CONSULTATION.—In conducting the study under this section, the Administrator shall consult with appropriate Federal, State, and local agencies.

(d) REPORT.—Not later than 1 year after the date of enactment of this Act, the Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report describing the results of the study under this section, including any recommendation for revision of the distribution formula referred to in subsection (a).

SEC. 10305. IMPACT OF CLIMATE CHANGE ON POLLUTION OF COASTAL RECREATION WATERS.

(a) STUDY.—The Administrator shall conduct a study on the long-term impact of climate change on pollution of coastal recreation waters.

(b) REPORT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator shall submit to Congress a report on the results of the study conducted under subsection (a).

(2) INFORMATION ON POTENTIAL CONTAMINANT IMPACTS.—The report shall include information on potential contaminant impacts on—

(A) ground and surface water resources; and

(B) public and ecosystem health in coastal communities.

(3) MONITORING.—The report shall—

(A) address monitoring required to document and assess changing conditions of coastal water resources, recreational waters, and ecosystems; and

(B) review the current ability to assess and forecast impacts associated with long-term climate change.

(4) FEDERAL ACTIONS.—The report shall highlight necessary Federal actions to help advance the availability of information and tools to assess and mitigate the impacts and effects described in paragraphs (2) and (3) in order to protect public and ecosystem health.

(5) CONSULTATION.—In developing the report, the Administrator shall work in consultation with agencies active in the development of the National Water Quality Monitoring Network and the implementation of the Ocean Research Priorities Plan and Implementation Strategy.

SEC. 10306. IMPACT OF NUTRIENTS ON POLLUTION OF COASTAL RECREATION WATERS.

(a) STUDY.—The Administrator shall conduct a study of available scientific information relating to the impacts of nutrient excesses and algal blooms on coastal recreation waters.

(b) REPORT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator shall submit to Congress a report on the results of the study conducted under subsection (a).

(2) INCLUSIONS.—The report under paragraph (1) shall include—

(A) information regarding the impacts of nutrient excesses and algal blooms on coastal recreation waters and coastal communities; and

(B) recommendations of the Administrator for actions to be carried out by the Administrator to address those impacts, including, if applicable, through the establishment of numeric water quality criteria.

(3) CONSULTATION.—In developing the report under paragraph (1), the Administrator shall work in consultation with the heads of other appropriate Federal agencies (including the National Oceanic and Atmospheric Administration), States, and local governmental entities.

Subtitle B—Chesapeake Bay Gateways and Watertrails Network

SEC. 10311. CHESAPEAKE BAY GATEWAYS AND WATERTRAILS NETWORK CONTINUING AUTHORIZATION.

Section 502 of the Chesapeake Bay Initiative Act of 1998 (16 U.S.C. 461 note; Public Law 105–312) is amended by striking subsection (c) and inserting the following:

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.''.

Subtitle C—Water Resources Research Amendments

SEC. 10321. WATER RESOURCES RESEARCH ACT AMENDMENTS.

(a) CONGRESSIONAL FINDINGS AND DECLARATIONS.—Section 102 of the Water Resources Research Act of 1984 (42 U.S.C. 10301) is amended—

(1) by redesignating paragraphs (7) through (9) as paragraphs (8) through (10), respectively;

(2) in paragraph (8) (as so redesignated), by striking ''and'' at the end; and

(3) by inserting after paragraph (6) the following:

''(7) additional research is required into increasing the effectiveness and efficiency of new and existing treatment works through alternative approaches, including—

''(A) nonstructural alternatives;

''(B) decentralized approaches;

''(C) water use efficiency; and

''(D) actions to reduce energy consumption or extract energy from wastewater;''.

(b) EVALUATION OF WATER RESOURCES RESEARCH PROGRAM.—Section 104 of the Water Resources Research Act of 1984 (42 U.S.C. 10303) is amended by striking subsection (e) and inserting the following:

''(e) EVALUATION OF WATER RESOURCES RESEARCH PROGRAM.—

''(1) IN GENERAL.—The Secretary shall conduct a careful and detailed evaluation of each institute at least once every 5 years to determine—

''(A) the quality and relevance of the water resources research of the institute;

''(B) the effectiveness of the institute at producing measured results and applied water supply research; and

''(C) whether the effectiveness of the institute as an institution for planning, conducting, and arranging for research warrants continued support under this section.

''(2) PROHIBITION ON FURTHER SUPPORT.—If, as a result of an evaluation under paragraph (1), the Secretary determines that an institute does not qualify for further support under this section, no further grants to the institute may be provided until the qualifications of the institute are reestablished to the satisfaction of the Secretary.''.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 104(f)(1) of the Water Resources Research Act of 1984 (42 U.S.C. 10303(f)(1)) is amended by striking ''for each of fiscal years 2007 through 2011'' and inserting ''for each of fiscal years 2012 through 2016''.

(d) ADDITIONAL APPROPRIATIONS WHERE RESEARCH FOCUSED ON WATER PROBLEMS OF INTERSTATE NATURE.—Section 104(g)(1) of the Water Resources Research Act of 1984 (42 U.S.C. 10303(g)(1)) is amended by striking ''for each of fiscal years 2007 through 2011'' and inserting ''for each of fiscal years 2012 through 2016''.

TITLE CIV—NATIONAL WOMEN'S HISTORY MUSEUM

SEC. 10401. SHORT TITLE.

This title may be cited as the ''National Women's History Museum Act of 2010''.

SEC. 10402. DEFINITIONS.

In this title:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of General Services.

(2) CERCLA.—The term ''CERCLA'' means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

(3) COMMITTEES.—The term ''Committees'' means the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate.

(4) MUSEUM.—The term ''Museum'' means the National Women's History Museum, Inc., a District of Columbia nonprofit corporation exempt from taxation pursuant to section 501(c)(3) of the Internal Revenue Code of 1986.

(5) PROPERTY.—The term ''Property'' means the property located in the District of Columbia, subject to survey and as determined by the Administrator, generally consisting of Squares 325 and 326. The Property is generally bounded by 12th Street, Independence Avenue, C Street, and the James Forrestal Building, all in Southwest Washington, District of Columbia, and shall include all associated air rights, improvements thereon, and appurtenances thereto.

SEC. 10403. CONVEYANCE OF PROPERTY.

(a) AUTHORITY TO CONVEY.—

(1) IN GENERAL.—Subject to the requirements of this title, the Administrator shall convey the Property to the Museum, on such terms and conditions as the Administrator considers reasonable and appropriate to protect the interests of the United States and further the purposes of this title.

(2) AGREEMENT.—As soon as practicable, but not later than 180 days after the date of enactment of this title, the Administrator shall enter into an agreement with the Museum for the conveyance.

(3) TERMS AND CONDITIONS.—The terms and conditions of the agreement shall address, among other things, mitigation of developmental impacts to existing Federal buildings and structures, security concerns, and operational protocols for development and use of the property.

(b) PURCHASE PRICE.—

(1) IN GENERAL.—The purchase price for the Property shall be its fair market value based on its highest and best use as determined by an independent appraisal commissioned by the Administrator and paid for by the Museum.

(2) SELECTION OF APPRAISER.—The appraisal shall be performed by an appraiser mutually acceptable to the Administrator and the Museum.

(3) TERMS AND CONDITIONS FOR APPRAISAL.—

(A) IN GENERAL.—Except as provided by subparagraph (B), the assumptions, scope of work, and other terms and conditions related to the appraisal assignment shall be mutually acceptable to the Administrator and the Museum.

(B) REQUIRED TERMS.—The appraisal shall assume that the Property does not contain hazardous waste (as defined in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903) or hazardous substances (as defined in section 101 of CERCLA (42 U.S.C. 9601) or other applicable environmental statutes) which require response action (as defined in such sections).

(c) APPLICATION OF PROCEEDS.—The purchase price shall be paid into the Federal Buildings Fund established under section 592 of title 40, United States Code. Upon deposit, the Administrator may expend, in amounts specified in appropriations Acts, the proceeds from the conveyance for any lawful purpose consistent with existing authorities granted to the Administrator.

(d) QUIT CLAIM DEED.—The Property shall be conveyed pursuant to a quit claim deed.

(e) USE RESTRICTION.—The Property shall be dedicated for use as a site for a national women's history museum for the 99-year period beginning on the date of conveyance to the Museum.

(f) REVERSION.—

(1) BASES FOR REVERSION.—The Property shall revert to the United States, at the option of the United States, without any obligation for repayment by the United States of any amount of the purchase price for the property, if—

(A) the Property is not used as a site for a national women's history museum at any time during the 99-year period referred to in subsection (e); or

(B) the Museum has not commenced construction of a museum facility on the Property in the 5-year period beginning on the date of enactment of this Act, other than for reasons beyond the control of the Museum as reasonably determined by the Administrator.

(2) ENFORCEMENT.—The Administrator may perform any acts necessary to enforce the reversionary rights provided in this section.

(3) CUSTODY OF PROPERTY UPON REVERSION.—If the Property reverts to the United States pursuant to this section, such property shall be under the custody and control of the Administrator.

(g) CLOSING.—The conveyance pursuant to this title shall occur not later than 3 years after the date of enactment of this Act. The Administrator may extend that period for such time as is reasonably necessary for the Museum to perform its obligations under section 10404(a).

SEC. 10404. ENVIRONMENTAL MATTERS.

(a) AUTHORIZATION TO CONTRACT FOR ENVIRONMENTAL RESPONSE ACTIONS.—The Administrator is authorized to contract with the Museum or an affiliate thereof for the performance (on behalf of the Administrator) of response actions on the Property.

(b) CREDITING OF RESPONSE COSTS.—Any costs incurred with the use of non-Federal funds by the Museum or an affiliate thereof pursuant to subsection (a) shall be credited to the purchase price for the Property.

(c) NO EFFECT ON COMPLIANCE WITH ENVIRONMENTAL LAWS.—Nothing in this title, or any amendment made by this title, affects or limits the application of or obligation to comply with any environmental law, including section 120(h) of CERCLA (42 U.S.C. 9620(h)).

SEC. 10405. INCIDENTAL COSTS.

Subject to section 10404, the Museum shall bear any and all costs associated with complying with the provisions of this title, including studies and reports, surveys, relocating tenants, and mitigating impacts to existing Federal buildings and structures resulting directly from the development of the property by the Museum.

SEC. 10406. LAND USE APPROVALS.

(a) EXISTING AUTHORITIES.—Nothing in this title shall be construed as limiting or affecting the authority or responsibilities of the National Capital Planning Commission or the Commission of Fine Arts.

(b) COOPERATION.—

(1) ZONING AND LAND USE.—Subject to paragraph (2), the Administrator shall reasonably cooperate with the Museum with respect to any zoning or other land use matter relating to development of the Property in accordance with this title. Such cooperation shall include consenting to applications by the Museum for applicable zoning and permitting with respect to the property.

(2) LIMITATIONS.—The Administrator shall not be required to incur any costs with respect to cooperation under this subsection and any consent provided under this subsection shall be premised on the property being developed and operated in accordance with this title.

SEC. 10407. REPORTS.

Not later than 1 year after the date of enactment of this Act, and annually thereafter until the end of the 5-year period following conveyance of the Property or until substantial completion of the museum facility (whichever is later), the Museum shall submit annual reports to the Administrator and the Committees detailing the development and construction activities of the Museum with respect to this title.

DIVISION K—OCEANS AND FISHERIES

TITLE CXI—PACIFIC SALMON STRONGHOLD CONSERVATION

SEC. 11101. SHORT TITLE.

This title may be cited as the ''Pacific Salmon Stronghold Conservation Act of 2010''.

SEC. 11102. FINDINGS; PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) Several species of salmon native to the rivers of the United States are highly migratory, interacting with salmon originating from Canada, Japan, Russia, and South Korea and spending portions of their life history outside of the territorial waters of the United States. Recognition of the migratory and transboundary nature of salmon species has led countries of the North Pacific to seek enhanced coordination and cooperation through multilateral and bilateral agreements.

(2) Salmon are a keystone species, sustaining more than 180 other species in freshwater and marine ecosystems. They are also an indicator of ecosystem health and potential impacts of climate change.

(3) Salmon are a central part of the culture, economy, and environment of Western North America.

(4) Economic activities relating to salmon generate billions of dollars of economic activity and provide thousands of jobs.

(5) During the anticipated rapid environmental change during the period beginning on the date of the enactment of this Act, maintaining key ecosystem processes and functions, population abundance, and genetic integrity will be vital to ensuring the health of salmon populations.

(6) Salmon strongholds provide critical production zones for commercial, recreational, and subsistence fisheries.

(7) Taking into consideration the frequency with which fisheries have collapsed during the period preceding the date of the enactment of this Act, using scientific research to correctly identify and conserve core centers of abundance, productivity, and diversity is vital to sustain salmon populations and fisheries in the future.

(8) Measures being undertaken as of the date of the enactment of this Act to recover threatened or endangered salmon stocks, including Federal, State, and local programs to restore salmon habitat, are vital. These measures will be complemented and enhanced by identifying and sustaining core centers of abundance, productivity, and diversity in the healthiest remaining salmon ecosystems throughout the range of salmon species.

(9) The effects of climate change are affecting salmon habitat at all life history stages and future habitat conservation must consider climate change projections to safeguard natural systems under future climate conditions.

(10) Greater coordination between public and private entities can assist salmon strongholds by marshaling and focusing resources on scientifically supported, high priority conservation actions.

(b) PURPOSES.—The purposes of this title are—

(1) to expand Federal support and resources for the protection and restoration of the healthiest remaining salmon strongholds in North America to sustain core centers of salmon abundance, productivity, and diversity in order to ensure the long-term viability of salmon populations—

(A) in the States of California, Idaho, Oregon, and Washington, by focusing resources on cooperative, incentive-based efforts to conserve the roughly 20 percent of salmon habitat that supports approximately two-thirds of salmon abundance; and

(B) in the State of Alaska, a regional stronghold that produces more than one-third of all salmon, by increasing resources available to public and private organizations working cooperatively to conserve regional core centers of salmon abundance and diversity;

(2) to maintain and enhance economic benefits related to fishing or associated with healthy salmon stronghold habitats, including flood protection, recreation, water quantity and quality, carbon sequestration, climate change mitigation and adaptation, and other ecosystem services; and

(3) to complement and add to existing Federal, State, and local salmon recovery efforts by using sound science to identify and sustain core centers of salmon abundance, productivity, and diversity in the healthiest remaining salmon ecosystems throughout their range.

SEC. 11103. DEFINITIONS.

In this title:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Assistant Administrator for Fisheries Service of the National Oceanic and Atmospheric Administration.

(2) BOARD.—The term ''Board'' means the Salmon Stronghold Partnership Board established under section 11104.

(3) CHARTER.—The term ''charter'' means the charter of the Board developed under section 11104(g).

(4) DIRECTOR.—The term ''Director'' means the Director of the United States Fish and Wildlife Service.

(5) ECOSYSTEM SERVICES.—The term ''ecosystem services'' means an ecological benefit generated from a healthy, functioning ecosystem, including clean water, pollutant filtration, regulation of river flow, prevention of soil erosion, regulation of climate, and fish production.

(6) PROGRAM.—Except as otherwise provided, the term ''program'' means the salmon stronghold watershed grants and technical assistance program established under section 11106(a).

(7) SALMON.—The term ''salmon'' means any of the wild anadromous Oncorhynchus species that occur in the Western United States, including—

(A) chum salmon (Oncorhynchus keta);

(B) pink salmon (Oncorhynchus gorbuscha);

(C) sockeye salmon (Oncorhynchus nerka);

(D) chinook salmon (Oncorhynchus tshawytscha);

(E) coho salmon (Oncorhynchus kisutch); and

(F) steelhead trout (Oncorhynchus mykiss).

(8) SALMON STRONGHOLD.—The term ''salmon stronghold'' means all or part of a watershed or that meets biological criteria for abundance, productivity, diversity (life history and run timing), habitat quality, or other biological attributes important to sustaining viable populations of salmon throughout their range, as defined by the Board.

(9) SALMON STRONGHOLD PARTNERSHIP.—The term ''Salmon Stronghold Partnership'' means the Salmon Stronghold Partnership established under section 11104(a)(1).

(10) SECRETARY.—Except as otherwise provided, the term ''Secretary'' means the Secretary of Commerce.

SEC. 11104. SALMON STRONGHOLD PARTNERSHIP.

(a) IN GENERAL.—

(1) ESTABLISHMENT.—The Secretary shall establish a Salmon Stronghold Partnership that is a cooperative, incentive-based, public-private partnership among appropriate Federal, State, tribal, and local governments, private landowners, and nongovernmental organizations working across political boundaries, government jurisdictions, and land ownerships to advise the Secretary on the identification and conservation of salmon strongholds.

(2) MEMBERSHIP.—To the extent possible, the membership of the Salmon Stronghold Partnership shall include each entity described under subsection (b).

(3) LEADERSHIP.—The Salmon Stronghold Partnership shall be managed by a Board established by the Secretary to be known as the Salmon Stronghold Partnership Board.

(b) SALMON STRONGHOLD PARTNERSHIP BOARD.—

(1) IN GENERAL.—The Board shall consist of representatives with strong scientific or technical credentials and expertise as follows:

(A) One representative from each of—

(i) the National Marine Fisheries Service, as appointed by the Administrator;

(ii) the United States Fish and Wildlife Service, as appointed by the Director;

(iii) the Forest Service, as appointed by the Chief of the Forest Service;

(iv) the Environmental Protection Agency, as appointed by the Administrator of the Environmental Protection Agency;

(v) the Bonneville Power Administration, as appointed by the Administrator of the Bonneville Power Administration;

(vi) the Bureau of Land Management, as appointed by the Director of the Bureau of Land Management; and

(vii) the Northwest Power and Conservation Council, as appointed by the Northwest Power and Conservation Council.

(B) One representative from the natural resources staff of the office of the Governor or of an appropriate natural resource agency of a State, as appointed by the Governor, from each of the States of—

(i) Alaska;

(ii) California;

(iii) Idaho;

(iv) Oregon; and

(v) Washington.

(C) Not less than 3 and not more than 5 representatives from Indian tribes or tribal commissions located within the range of a salmon species, as appointed by such Indian tribes or tribal commissions, in consultation with the Board.

(D) One representative from each of 3 nongovernmental organizations with salmon conservation and management expertise, as selected by the Board.

(E) One national or regional representative from an association of counties, as selected by the Board.

(F) Representatives of other entities with significant resources regionally dedicated to the protection of salmon ecosystems that the Board determines are appropriate, as selected by the Board.

(2) FAILURE TO APPOINT.—If a representative described in subparagraph (B), (C), (D), (E), or (F) of paragraph (1) is not appointed to the Board or otherwise fails to participate in the Board, the Board shall carry out its functions until such representative is appointed or joins in such participation.

(c) MEETINGS.—

(1) FREQUENCY.—Not less frequently than 3 times each year, the Board shall meet to provide opportunities for input from a broader set of stakeholders.

(2) NOTICE.—Prior to each meeting, the Board shall give timely notice of the meeting to the public, the government of each county, and tribal government in which a salmon stronghold is identified by the Board.

(d) BOARD CONSULTATION.—The Board shall seek expertise from fisheries experts from agencies, colleges, or universities, as appropriate.

(e) CHAIRPERSON.—The Board shall nominate and select a Chairperson from among the members of the Board.

(f) COMMITTEES.—The Board—

(1) shall establish a standing science advisory committee to assist the Board in the development, collection, evaluation, and peer review of statistical, biological, economic, social, and other scientific information; and

(2) may establish additional standing or ad hoc committees as the Board determines are necessary.

(g) CHARTER.—The Board shall develop a written charter that—

(1) provides for the members of the Board described in subsection (b);

(2) may be signed by a broad range of partners, to reflect a shared understanding of the purposes, intent, and governance framework of the Salmon Stronghold Partnership; and

(3) includes—

(A) the defining criteria for a salmon stronghold;

(B) the process for identifying salmon strongholds; and

(C) the process for reviewing and awarding grants under the program, including—

(i) the number of years for which such a grant may be awarded;

(ii) the process for renewing such a grant;

(iii) the eligibility requirements for such a grant;

(iv) the reporting requirements for projects awarded such a grant; and

(v) the criteria for evaluating the success of a project carried out with such a grant.

(h) FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Board.

SEC. 11105. INFORMATION AND ASSESSMENT.

The Administrator shall carry out specific information and assessment functions associated with salmon strongholds, in coordination with other regional salmon efforts, including—

(1) triennial assessment of status and trends in salmon strongholds;

(2) geographic information system and mapping support to facilitate conservation planning;

(3) projections of climate change impacts on all habitats and life history stages of salmon;

(4) development and application of models and other tools to identify salmon conservation actions projected to have the greatest positive impacts on salmon abundance, productivity, or diversity within salmon strongholds; and

(5) measurement of the effectiveness of the Salmon Stronghold Partnership activities.

SEC. 11106. SALMON STRONGHOLD WATERSHED GRANTS AND TECHNICAL ASSISTANCE PROGRAM.

(a) IN GENERAL.—The Administrator, in consultation with the Director, shall establish a salmon stronghold watershed grants and technical assistance program, as described in this section.

(b) PURPOSE.—The purpose of the program shall be to support salmon stronghold protection and restoration activities, including—

(1) to fund the administration of the Salmon Stronghold Partnership in carrying out the charter;

(2) to encourage cooperation among the entities represented on the Board, local authorities, and private entities to establish a network of salmon strongholds, and assist locally in specific actions that support the Salmon Stronghold Partnership;

(3) to support entities represented on the Board—

(A) to develop strategies focusing on salmon conservation actions projected to have the greatest positive impacts on abundance, productivity, or diversity in salmon strongholds; and

(B) to provide financial assistance to the Salmon Stronghold Partnership to increase local economic opportunities and resources for actions or practices that provide long-term or permanent conservation and that maintain key ecosystem services in salmon strongholds, including—

(i) payments for ecosystem services; and

(ii) demonstration projects designed for specific salmon strongholds;

(4) to maintain a forum to share best practices and approaches, employ consistent and comparable metrics, forecast and address climate impacts, and monitor, evaluate, and report regional status and trends of salmon ecosystems in coordination with related regional and State efforts;

(5) to carry out activities and existing conservation programs in, and across, salmon strongholds on a regional scale to achieve the goals of the Salmon Stronghold Partnership;

(6) to accelerate the implementation of recovery plans in salmon strongholds that have salmon populations listed as threatened or endangered under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(7) to develop and make information available to the public pertaining to the Salmon Stronghold Partnership; and

(8) to conduct education outreach to the public, in coordination with other programs, to encourage increased stewardship of salmon strongholds.

(c) SELECTION.—Projects that will be carried out with assistance from the program shall be selected and administered as follows:

(1) SITE-BASED PROJECTS.—A project that will be carried out with assistance from the program within 1 State shall be selected as follows:

(A) STATE SELECTION.—If a State has a competitive grant process relating to salmon conservation in effect as of the date of the enactment of this Act and has a proven record of implementing an efficient, cost-effective, and competitive grant program for salmon conservation or has a viable plan to provide accountability under the program—

(i) the National Fish and Wildlife Foundation, in consultation with the Board, shall provide program funds to the State; and

(ii) the State shall select and administer projects to be carried out in such State, in consideration of criteria developed pursuant to subsection (d).

(B) NATIONAL FISH AND WILDLIFE FOUNDATION SELECTION.—If a State does not meet the criteria described in subparagraph (A)—

(i) the Administrator, in consultation with the Director, shall provide funds to the National Fish and Wildlife Foundation; and

(ii) the National Fish and Wildlife Foundation, in consultation with the Board, shall select and administer projects to be carried out in such State, in consideration of criteria developed pursuant to subsection (d).

(2) MULTISITE AND PROGRAMMATIC INITIATIVES.—For a project that will be carried out with assistance from the program in more than 1 State or that is a programmatic initiative that affects more than 1 State—

(A) the Administrator, in consultation with the Director, shall provide funds to the National Fish and Wildlife Foundation; and

(B) the National Fish and Wildlife Foundation, in consultation with the Board, shall select and administer such projects to be carried out, in consideration of criteria developed pursuant to subsection (d).

(d) CRITERIA FOR APPROVAL.—

(1) CRITERIA DEVELOPED BY THE BOARD.—

(A) REQUIREMENT TO DEVELOP.—The Board shall develop and provide advisory criteria for the prioritization of projects funded under the program in a manner that enables projects to be individually ranked in sequential order by the magnitude of the project's positive impacts on salmon abundance, productivity, or diversity.

(B) SPECIFIC REQUIREMENTS.—The criteria required by subparagraph (A) shall require that a project that receives assistance under the program—

(i) contributes to the conservation of salmon;

(ii) meets the criteria for eligibility established in the charter;

(iii)(I) addresses a factor limiting or threatening to limit abundance, productivity, diversity, habitat quality, or other biological attributes important to sustaining viable salmon populations within a salmon stronghold; or

(II) is a programmatic action that supports the Salmon Stronghold Partnership;

(iv) addresses limiting factors to healthy ecosystem processes or sustainable fisheries management;

(v) has the potential for conservation benefits and broadly applicable results; and

(vi) meets the requirements for—

(I) cost sharing described in subsection (e); and

(II) the limitation on administrative expenses described in subsection (f).

(C) SCHEDULE FOR DEVELOPMENT.—The Board shall—

(i) develop and provide the criteria required by subparagraph (A) prior to the initial solicitation of projects under the program; and

(ii) revise such criteria not less often than once each year.

(e) COST SHARING.—

(1) FEDERAL SHARE.—

(A) NON-FEDERAL LAND.—For any fiscal year, the Federal share of the cost of a project that receives assistance under the program and that is carried out on land that is not owned by the United States shall not exceed 50 percent of the total cost of the project.

(B) FEDERAL LAND.—For any fiscal year, the Federal share of the cost of a project that receives assistance under the program and that is carried out on land that is owned by the United States, including the acquisition of inholdings, may be up to 100 percent of the total cost of the project.

(2) NON-FEDERAL SHARE.—

(A) IN GENERAL.—Subject to subparagraph (B), the non-Federal share of the cost of a project that receives assistance under the program may not be derived from Federal grant programs, but may include in-kind contributions.

(B) BONNEVILLE POWER ADMINISTRATION.—Any amounts provided by the Bonneville Power Administration directly or through a grant to another entity used to carry out a project that receives assistance under the program shall be credited toward the non-Federal share of the cost of the project.

(f) ADMINISTRATIVE EXPENSES.—Of the amount available to a State or the National Fish and Wildlife Foundation under the program for each fiscal year, such State and the National Fish and Wildlife Foundation shall not expend more than 5 percent of such amount for administrative and reporting expenses necessary to carry out this section.

(g) REPORTS.—

(1) REPORTS TO STATES OR NFWF.—Each person who receives assistance through a State or the National Fish and Wildlife Foundation under the program for a project shall provide periodic reports to the State or the National Fish and Wildlife Foundation, as appropriate, that includes the information required by the State or the National Fish and Wildlife Foundation to evaluate the progress and success of the project.

(2) REPORTS TO THE ADMINISTRATOR.—Not less frequently than once every 3 years, each State that is provided program funds under subsection (c)(1)(A) and the National Fish and Wildlife Foundation shall provide reports to the Administrator that include the information required by the Administrator to evaluate the implementation of the program.

SEC. 11107. INTERAGENCY COOPERATION.

The head of each Federal agency or department responsible for acquiring, managing, or disposing of Federal land that is within a salmon stronghold shall, to the extent consistent with the mission of the agency or department and existing law, cooperate with the Administrator and the Director—

(1) to conserve the salmon strongholds; and

(2) to effectively coordinate and streamline Salmon Stronghold Partnership activities and delivery of overlapping, incentive-based programs that affect the salmon stronghold.

SEC. 11108. INTERNATIONAL COOPERATION.

(a) AUTHORITY TO COOPERATE.—The Administrator and the Board may share status and trends data, innovative conservation strategies, conservation planning methodologies, and other information with North Pacific countries, including Canada, Japan, Russia, and South Korea, and appropriate international entities to promote conservation of salmon and salmon habitat.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Administrator and the Board, or entities that are members of the Board, should and are encouraged to provide information to North Pacific countries, including Canada, Japan, Russia, and South Korea, and appropriate international entities to support the development of a network of salmon strongholds across the nations of the North Pacific.

SEC. 11109. ACQUISITION AND TRANSFER OF REAL PROPERTY INTERESTS.

(a) USE OF REAL PROPERTY.—No project that will result in the acquisition by the Secretary or the Secretary of the Interior of any land or interest in land, in whole or in part, may receive funds under this title unless the project is consistent with the purposes of this title.

(b) PRIVATE PROPERTY PROTECTION.—No Federal funds made available to carry out this title may be used to acquire any real property or any interest in any real property without the written consent of the 1 or more owners of the property or interest in property.

(c) TRANSFER OF REAL PROPERTY.—No land or interest in land, acquired in whole or in part by the Secretary of the Interior with Federal funds made available under this title to carry out a salmon stronghold conservation project may be transferred to a State, other public agency, or other entity unless—

(1) the Secretary of the Interior determines that the State, agency, or entity is committed to manage, in accordance with this title and the purposes of this title, the property being transferred; and

(2) the deed or other instrument of transfer contains provisions for the reversion of the title to the property to the United States if the State, agency, or entity fails to manage the property in accordance with this title and the purposes of this title.

(d) REQUIREMENT.—Any real property interest conveyed under subsection (c) shall be subject to such terms and conditions as will ensure, to the maximum extent practicable, that the interest will be administered in accordance with this title and the purposes of this title.

SEC. 11110. ADMINISTRATIVE PROVISIONS.

(a) CONTRACTS, GRANTS, AND TRANSFERS OF FUNDS.—In carrying out this title, the Secretary may—

(1) after consideration of a recommendation of the Board and notwithstanding sections 6304 and 6305 of title 31, United States Code, and the Federal Financial Assistance Management Improvement Act of 1999 (Public Law 106–107; 31 U.S.C. 6101 note), enter into cooperative agreements, contracts, and grants;

(2) notwithstanding any other provision of law, apply for, accept, and use grants from any person to carry out the purposes of this title; and

(3) make funds available to any Federal agency or department to be used by the agency or department to award financial assistance for any salmon stronghold protection, restoration, or enhancement project that the Secretary determines to be consistent with this title.

(b) DONATIONS.—

(1) IN GENERAL.—The Secretary may—

(A) enter into an agreement with any organization described in section 501(c)(3) of the Internal Revenue Code of 1986 to authorize the organization to carry out activities under this title; and

(B) accept donations of funds or services for use in carrying out this title.

(2) PROPERTY.—The Secretary of the Interior may accept donations of property for use in carrying out this title.

(3) USE OF DONATIONS.—Donations accepted under this section—

(A) shall be considered to be gifts or bequests to, or for the use of, the United States; and

(B) may be used directly by the Secretary (or, in the case of donated property under paragraph (2), the Secretary of the Interior) or provided to other Federal agencies or departments through interagency agreements.

(c) INTERAGENCY FINANCING.—The Secretary may participate in interagency financing, including receiving appropriated funds from other agencies or departments to carry out this title.

(d) STAFF.—Subject to the availability of appropriations, the Administrator may hire such additional full-time employees as are necessary to carry out this title.

SEC. 11111. LIMITATIONS.

Nothing in this title may be construed—

(1) to create a reserved water right, express or implied, in the United States for any purpose, or affect the management or priority of water rights under State law;

(2) to affect existing water rights under Federal or State law;

(3) to affect any Federal or State law in existence on the date of the enactment of this Act regarding water quality or water quantity;

(4) to affect the authority, jurisdiction, or responsibility of any agency or department of the United States or of a State to manage, control, or regulate fish and resident wildlife under a Federal or State law or regulation;

(5) to authorize the Secretary or the Secretary of the Interior to control or regulate hunting or fishing under State law;

(6) to abrogate, abridge, affect, modify, supersede, or otherwise alter any right of a federally recognized Indian tribe under any applicable Federal or tribal law or regulation; or

(7) to diminish or affect the ability of the Secretary or the Secretary of the Interior to join the adjudication of rights to the use of water pursuant to subsections (a), (b), or (c) of section 208 of the Department of Justice Appropriation Act, 1953 (43 U.S.C. 666).

SEC. 11112. REPORTS TO CONGRESS.

Not less frequently than once every 3 years, the Administrator, in consultation with the Director, shall submit to Congress a report describing the activities carried out under this title, including the recommendations of the Administrator, if any, for legislation relating to the Salmon Stronghold Partnership.

SEC. 11113. AUTHORIZATION OF APPROPRIATIONS.

(a) GRANTS.—

(1) IN GENERAL.—There is authorized to be appropriated to the Administrator, to be distributed by the National Fish and Wildlife Foundation as a fiscal agent, to provide grants under the program, $30,000,000 for each of fiscal years 2011 through 2015.

(2) BOARD.—The National Fish and Wildlife Foundation shall, from the amount appropriated pursuant to the authorization of appropriations in paragraph (1), make available sufficient funds to the Board to carry out its duties under this title.

(b) TECHNICAL ASSISTANCE.—For each of fiscal years 2011 through 2015, there is authorized to be appropriated to the Administrator $300,000 to provide technical assistance under the program and to carry out section 11105.

(c) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to an authorization of appropriations in this section are authorized to remain available until expended.

TITLE CXII—SHARK CONSERVATION

SEC. 11201. SHORT TITLE.

This title may be cited as the ''Shark Conservation Act of 2010''.

SEC. 11202. AMENDMENT OF HIGH SEAS DRIFTNET FISHING MORATORIUM PROTECTION ACT.

(a) ACTIONS TO STRENGTHEN INTERNATIONAL FISHERY MANAGEMENT ORGANIZATIONS.—Section 608 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826i) is amended—

(1) in paragraph (1)—

(A) in subparagraph (D), by striking ''and'' at the end;

(B) in subparagraph (E), by inserting ''and'' after the semicolon; and

(C) by adding at the end the following:

''(F) to adopt shark conservation measures, including measures to prohibit removal of any of the fins of a shark (including the tail) and discarding the carcass of the shark at sea;'';

(2) in paragraph (2), by striking ''and'' at the end;

(3) by redesignating paragraph (3) as paragraph (4); and

(4) by inserting after paragraph (2) the following:

''(3) seeking to enter into international agreements that require measures for the conservation of sharks, including measures to prohibit removal of any of the fins of a shark (including the tail) and discarding the carcass of the shark at sea, that are comparable to those of the United States, taking into account different conditions; and''.

(b) ILLEGAL, UNREPORTED, OR UNREGULATED FISHING.—Subparagraph (A) of section 609(e)(3) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826j(e)(3)) is amended—

(1) by striking the ''and'' before ''bycatch reduction requirements''; and

(2) by striking the semicolon at the end and inserting '', and shark conservation measures;''.

(c) EQUIVALENT CONSERVATION MEASURES.—

(1) IDENTIFICATION.—Subsection (a) of section 610 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826k) is amended—

(A) in the matter preceding paragraph (1), by striking ''607, a nation if—'' and inserting ''607—'';

(B) in paragraph (1)—

(i) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively; and

(ii) by moving clauses (i) and (ii) (as so redesignated) 2 ems to the right;

(C) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively;

(D) by moving subparagraphs (A) through (C) (as so redesignated) 2 ems to the right;

(E) by inserting before subparagraph (A) (as so redesignated) the following:

''(1) a nation if—'';

(F) in subparagraph (C) (as so redesignated) by striking the period at the end and inserting ''; and''; and

(G) by adding at the end the following:

''(2) a nation if—

''(A) fishing vessels of that nation are engaged, or have been engaged during the preceding calendar year, in fishing activities or practices in waters beyond any national jurisdiction that target or incidentally catch sharks; and

''(B) the nation has not adopted a regulatory program to provide for the conservation of sharks, including measures to prohibit removal of any of the fins of a shark (including the tail) and discarding the carcass of the shark at sea, that is comparable to that of the United States, taking into account different conditions.''.

(2) INITIAL IDENTIFICATIONS.—The Secretary of Commerce shall begin making identifications under paragraph (2) of section 610(a) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826k(a)), as added by paragraph (1)(G), not later than 1 year after the date of the enactment of this Act.

SEC. 11203. AMENDMENT OF MAGNUSON-STEVENS FISHERY CONSERVATION AND MANAGEMENT ACT.

Paragraph (1) of section 307 of Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1857) is amended—

(1) by amending subparagraph (P) to read as follows:

''(P)(i) to remove any of the fins of a shark (including the tail) at sea;

''(ii) to have custody, control, or possession of any such fin aboard a fishing vessel unless it is naturally attached to the corresponding carcass;

''(iii) to transfer any such fin from one vessel to another vessel at sea, or to receive any such fin in such transfer, without the fin naturally attached to the corresponding carcass; or

''(iv) to land any such fin that is not naturally attached to the corresponding carcass, or to land any shark carcass without such fins naturally attached;''; and

(2) by striking the matter following subparagraph (R) and inserting the following:

''For purposes of subparagraph (P), there shall be a rebuttable presumption that if any shark fin (including the tail) is found aboard a vessel, other than a fishing vessel, without being naturally attached to the corresponding carcass, such fin was transferred in violation of subparagraph (P)(iii) or that if, after landing, the total weight of shark fins (including the tail) landed from any vessel exceeds 5 percent of the total weight of shark carcasses landed, such fins were taken, held, or landed in violation of subparagraph (P). In such subparagraph, the term 'naturally attached', with respect to a shark fin, means attached to the corresponding shark carcass through some portion of uncut skin.''.

TITLE CXIII—MARINE MAMMAL RESCUE ASSISTANCE

SEC. 11301. SHORT TITLE.

This title may be cited as the ''Marine Mammal Rescue Assistance Amendments of 2010''.

SEC. 11302. STRANDING AND ENTANGLEMENT RESPONSE.

(a) COLLECTION AND UPDATING OF INFORMATION.—Section 402(b)(1)(A) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1421a(b)(1)(A)) is amended by inserting ''or entangled'' after ''stranded''.

(b) ENTANGLEMENT RESPONSE AGREEMENTS.—

(1) IN GENERAL.—Section 403 of that Act (16 U.S.C. 1421b) is amended—

(A) by striking the section heading and inserting the following:

''SEC. 403. STRANDING OR ENTANGLEMENT RESPONSE AGREEMENTS.'';

and

(B) by striking ''stranding.'' in subsection (a) and inserting ''stranding or entanglement.''.

(2) CLERICAL AMENDMENT.—The table of contents for title IV of that Act is amended by striking the item relating to section 403 and inserting the following:

''Sec. 403. Stranding or entanglement response agreements.''.

(c) LIABILITY.—Section 406(a) of such Act (16 U.S.C. 1421e(a)) is amended by inserting ''or entanglement'' after ''stranding''.

(d) ENTANGLEMENT DEFINED.—

(1) IN GENERAL.—Section 410 of such Act (16 U.S.C. 1421h) is amended—

(A) by redesignating paragraphs (1) through (6) as paragraphs (2) through (7), respectively; and

(B) by inserting before paragraph (2) (as so redesignated) the following:

''(1) The term 'entanglement' means an event in the wild in which a living or dead marine mammal has gear, rope, line, net, or other material wrapped around or attached to it and is—

''(A) on a beach or shore of the United States; or

''(B) in waters under the jurisdiction of the United States.''.

(2) CONFORMING AMENDMENT.—Section 408(a)(2)(B)(i) of such Act (16 U.S.C. 1421f–1(a)(2)(B)(i)) is amended by striking ''section 410(6)'' and inserting ''section 410(7)''.

(e) UNUSUAL MORTALITY EVENT FUNDING.—Section 405 of such Act (16 U.S.C. 1421d) is amended—

(1) by striking ''to compensate persons for special costs'' in subsection (b)(1)(A)(i) and inserting ''to make advance, partial, or progress payments under contracts or other funding mechanisms for property, supplies, salaries, services, and travel costs'';

(2) by striking ''preparing and transporting'' in subsection (b)(1)(A)(ii) and inserting ''the preparation, analysis, and transportation of'';

(3) by striking ''event for'' in subsection (b)(1)(A)(ii) and inserting ''event, including such transportation for'';

(4) by striking ''and'' after the semicolon in subsection (c)(2);

(5) by striking ''subsection (d).'' in subsection (c)(3) and inserting ''subsection (d); and''; and

(6) by adding at the end of subsection (c) the following:

''(4) up to $500,000 per fiscal year (as determined by the Secretary) from amounts appropriated to the Secretary for carrying out this title and the other titles of this Act.''.

(f) JOHN H. PRESCOTT MARINE MAMMAL RESCUE AND RESPONSE FUNDING PROGRAM.—

(1) AUTHORIZATION OF APPROPRIATIONS.—Section 408(h) of such Act (16 U.S.C. 1421f–1(h)) is amended to read as follows:

''(h) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There are authorized to be appropriated to carry out this section, other than subsection (a)(3), $7,000,000 for each of fiscal years 2011 through 2015, to remain available until expended, of which—

''(A) $6,000,000 may be available to the Secretary of Commerce; and

''(B) $1,000,000 may be available to the Secretary of the Interior.

''(2) RAPID RESPONSE FUND.—There are authorized to be appropriated to the John H. Prescott Marine Mammal Rescue and Rapid Response Fund established by subsection (a)(3), $500,000 for each of fiscal years 2011 through 2015.

''(3) ADDITIONAL RAPID RESPONSE FUNDS.—There shall be deposited into the Fund established by subsection (a)(3) up to $500,000 per fiscal year (as determined by the Secretary) from amounts appropriated to the Secretary for carrying out this title and the other titles of this Act.''.

(2) ADMINISTRATIVE COSTS AND EXPENSES.—Section 408(f) of such Act (16 U.S.C. 1421f–1(f)) is amended to read as follows:

''(f) ADMINISTRATIVE COSTS AND EXPENSES.—Of the amounts available each fiscal year to carry out this section, the Secretary may expend not more than 6 percent or $120,000, whichever is greater, to pay the administrative costs and administrative expenses to implement the program under subsection (a). Any such funds retained by the Secretary for a fiscal year for such costs and expenses that are not used for such costs and expenses before the end of the fiscal year shall be provided under subsection (a).''.

(3) EMERGENCY ASSISTANCE.—Section 408 of such Act (16 U.S.C. 1421f–1) is amended—

(A) in subsection (a)—

(i) by striking the material preceding paragraph (2) and inserting the following:

''(a) IN GENERAL.—

''(1) IN GENERAL.—Subject to the availability of appropriations, the Secretary shall conduct a program to be known as the John H. Prescott Marine Mammal Rescue and Response Funding Program, to provide for the recovery or treatment of marine mammals, the collection of data from living or dead stranded or entangled marine mammals for scientific research regarding marine mammal health, facility operation costs that are directly related to those purposes, and stranding or entangling events requiring emergency assistance. All funds available to implement this section shall be distributed to eligible stranding network participants for the purposes set forth in this paragraph and paragraph (2), except as provided in subsection (f).'';

(ii) by redesignating paragraph (2) as paragraph (4) and inserting after paragraph (1) the following:

''(2) CONTRACT AUTHORITY.—To carry out the activities set out in paragraph (1), the Secretary may enter into grants, cooperative agreements, contracts, or such other agreements or arrangements as the Secretary deems appropriate.

''(3) PRESCOTT RAPID RESPONSE FUND.—There is established in the Treasury an interest bearing fund to be known as the 'John H. Prescott Marine Mammal Rescue and Rapid Response Fund', which shall consist of a portion of amounts deposited into the Fund under subsection (h) or received as contributions under subsection (i), and which shall remain available until expended without regard to any statutory or regulatory provision related to the negotiation, award, or administration of any grants, cooperative agreements, and contracts.''; and

(iii) in paragraph (4)(A), as redesignated by clause (ii)—

(I) by striking ''designated as of the date of the enactment of the Marine Mammal Rescue Assistance Act of 2000, and in making such grants'' and inserting ''as defined in subsection (g). The Secretary''; and

(II) by striking ''subregions.'' and inserting ''subregions where such facilities exist.'';

(B) by striking subsections (d) and (e) and inserting the following:

''(d) LIMITATION.—

''(1) IN GENERAL.—Support for an individual project under this section may not exceed $200,000 for any 12-month period.

''(2) UNEXPENDED FUNDS.—Amounts provided as support for an individual project under this section that are unexpended or unobligated at the end of such period—

''(A) shall remain available until expended; and

''(B) shall not be taken into account in any other 12-month period for purposes of paragraph (1).

''(e) MATCHING REQUIREMENT.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the non-Federal share of the costs of an activity conducted with funds under this section shall be 25 percent of such Federal costs.

''(2) WAIVER.—The Secretary shall waive the requirements of paragraph (1) with respect to an activity conducted with emergency funds disbursed from the Fund established by subsection (a)(3).

''(3) IN-KIND CONTRIBUTIONS.—The Secretary may apply to the non-Federal share of an activity conducted with a grant under this section the amount of funds, and the fair market value of property and services, provided by non-Federal sources and used for the activity.''; and

(C) in subsection (g), by redesignating paragraph (2) as paragraph (3) and inserting after paragraph (1) the following:

''(2) EMERGENCY ASSISTANCE.—The term 'emergency assistance' means assistance provided for a stranding or entangling event—

''(A) that—

''(i) is not an unusual mortality event as defined in section 409(7);

''(ii) leads to an immediate increase in required costs for stranding or entangling response, recovery, or rehabilitation in excess of regularly scheduled costs;

''(iii) may be cyclical or endemic; and

''(iv) may involve out-of-habitat animals; or

''(B) is found by the Secretary to qualify for emergency assistance.''.

(4) CONTRIBUTIONS.—Section 408 of such Act (16 U.S.C. 1421f–1) is amended by adding at the end the following:

''(i) CONTRIBUTIONS.—For purposes of carrying out this section, the Secretary may solicit, accept, receive, hold, administer, and use gifts, devises, and bequests without any further approval or administrative action.''.

(5) PRESCOTT RESCUE AND RAPID RESPONSE FUND DEFINED.—

(A) IN GENERAL.—Section 410 of such Act (16 U.S.C. 1421h), as amended by subsection (d)(1) of this section, is further amended—

(i) by redesignating paragraphs (4) through (7) as paragraphs (5) through (8), respectively; and

(ii) by inserting after paragraph (3) the following:

''(4) The term 'Prescott Rescue and Response Fund' means the John H. Prescott Marine Mammal Rescue and Response Fund established by section 408(a).''.

(B) CONFORMING AMENDMENT.—Section 408(a)(2)(B)(i) of such Act (16 U.S.C. 1421f–1(a)(2)(B)(i)), as amended by subsection (d)(2) of this section, is further amended by striking ''section 410(7)'' and inserting ''section 410(8)''.

(6) CONFORMING AMENDMENT.—The section heading for section 408 is amended to read as follows:

''SEC. 408. JOHN H. PRESCOTT MARINE MAMMAL RESCUE AND RESPONSE FUNDING PROGRAM.''.

(g) AUTHORIZATION OF APPROPRIATIONS FOR MARINE MAMMAL UNUSUAL MORTALITY EVENT

FUND.—Section 409 of such Act (16 U.S.C. 1421g) is amended—

(1) by striking ''1993 and 1994;'' in paragraph (1) and inserting ''2011 through 2015;'';

(2) by striking ''1993 and 1994;'' in paragraph (2) and inserting ''2011 through 2015;''; and

(3) by striking ''fiscal year 1993.'' in paragraph (3) and inserting ''each of fiscal years 2011 through 2015.''.

TITLE CXIV—SOUTHERN SEA OTTER RECOVERY AND RESEARCH

SEC. 11401. SHORT TITLE.

This title may be cited as the ''Southern Sea Otter Recovery and Research Act''.

SEC. 11402. DEFINITIONS.

In this title:

(1) RECOVERY AND RESEARCH PROGRAM.—The term ''recovery and research program'' means the southern sea otter recovery and research program carried out under section 11403(a).

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service and the Director of the United States Geological Survey.

SEC. 11403. SOUTHERN SEA OTTER RECOVERY AND RESEARCH PROGRAM.

(a) PROGRAM.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary of the Interior, acting through the United States Fish and Wildlife Service and the United States Geological Survey, shall carry out a recovery and research program for southern sea otter populations along the coast of California, informed by—

(A) the prioritized research recommendations of the Final Revised Recovery Plan for the southern sea otter (Enhydra lutris nereis) published by the United States Fish and Wildlife Service and dated February 24, 2003;

(B) the Research Plan for California Sea Otter Recovery issued by the United States Fish and Wildlife Service Southern Sea Otter Recovery Implementation Team and dated March 2, 2007; and

(C) any other recovery, research, or conservation plan adopted by the United States Fish and Wildlife Service after the date of the enactment of this Act in accordance with otherwise applicable law.

(2) REQUIREMENTS.—The recovery and research program shall include—

(A) monitoring, analysis, and assessment of southern sea otter population demographics, health, causes of mortality, and life history parameters, including range-wide population surveys; and

(B) development and implementation of measures to reduce or eliminate potential factors limiting southern sea otter populations that relate to marine ecosystem health or human activities.

(b) APPOINTMENT OF RECOVERY IMPLEMENTATION TEAM.—Not later than 1 year after the commencement of the recovery and research program under subsection (a), the Secretary shall appoint persons to a southern sea otter recovery implementation team as authorized in accordance with section 4(f)(2) of the Endangered Species Act of 1973 (16 U.S.C. 1533(f)(2)).

(c) SOUTHERN SEA OTTER RESEARCH AND RECOVERY GRANTS.—

(1) GRANT AUTHORITY.—The Secretary shall establish a peer-reviewed, merit-based process to award competitive grants for research regarding southern sea otters and for projects assisting the recovery of southern sea otter populations.

(2) PEER REVIEW PANEL.—The Secretary shall establish as necessary a peer review panel to provide scientific advice and guidance to prioritize proposals for grants under this subsection.

(3) RESEARCH GRANT SUBJECTS.—Research funded with grants under this subsection—

(A) shall be in accordance with the research recommendations of any plan referred to in subsection (a); and

(B) may include research on topics such as—

(i) causes of sea otter mortality;

(ii) southern sea otter demographics and natural history;

(iii) effects and sources of poor water quality on southern sea otters (including pollutants, nutrients, and toxicants) and mechanisms for addressing those effects and sources;

(iv) effects and sources of infectious diseases and parasites affecting southern sea otters;

(v) limitations on the availability of food resources for southern sea otters and the impacts of food limitation on southern sea otter carrying capacity;

(vi) interactions between southern sea otters and coastal fisheries and other human activities in the marine environment;

(vii) assessment of the keystone ecological role of sea otters in coastal marine ecosystems of southern and central California, including the direct and indirect effects of sea otter predation, especially as those effects influence human welfare, resource use, and ecosystem services; and

(viii) assessment of the adequacy of emergency response and contingency plans.

(4) RECOVERY PROJECT SUBJECTS.—Recovery projects funded with grants under this subsection—

(A) shall be conducted in accordance with recovery recommendations of any plan referred to in subsection (a) and the findings of the research conducted under this section; and

(B) may include projects—

(i) to protect and recover southern sea otters;

(ii) to reduce, mitigate, or eliminate potential factors limiting southern sea otter populations that are related to human activities, including projects—

(I) to reduce, mitigate, or eliminate factors contributing to mortality, adversely affecting health, or restricting distribution and abundance; and

(II) to reduce, mitigate, or eliminate factors that harm or reduce the quality of southern sea otter habitat or the health of coastal marine ecosystems; and

(iii) to implement emergency response and contingency plans.

(d) REPORT.—The Secretary shall—

(1) not later than 1 year after the date of the enactment of this Act, submit to Congress a report on—

(A) the status of southern sea otter populations;

(B) implementation of the recovery and research program and the grant program under this title; and

(C) any relevant formal consultations conducted during the 2 years preceding the date of the enactment of this Act, and any other consultations the Secretary determines to be relevant, under section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536) with respect to the southern sea otter; and

(2) not later than 2 years after the date of the enactment of this Act and every 5 years thereafter, and in consultation with a southern sea otter recovery implementation team that is otherwise being used by the Secretary under section 4(f) of the Endangered Species Act of 1973 (16 U.S.C. 1533(f)), submit to Congress and make available to the public a report that includes—

(A) an evaluation of—

(i) southern sea otter health;

(ii) causes of southern sea otter mortality; and

(iii) the interactions of southern sea otters with the coastal marine ecosystems of California;

(B) an evaluation of actions taken—

(i) to improve southern sea otter health;

(ii) to reduce southern sea otter mortality; and

(iii) to improve southern sea otter habitat;

(C) recommendations for actions that may be taken pursuant to all applicable law—

(i) to improve southern sea otter health;

(ii) to reduce the occurrence of human-related mortality; and

(iii) to improve the health of the coastal marine ecosystems of California;

(D) recommendations for funding to carry out this title; and

(E) a description of any formal consultations that the Secretary determines to be relevant to the research and recovery program established under this title that are conducted in accordance with section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536) after the date of the enactment of this Act.

SEC. 11404. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to the Secretary to carry out this title $5,000,000 for each of fiscal years 2011 through 2016.

(b) MINIMUM PERCENTAGES FOR GRANTS AND PROJECTS.—During the period of fiscal years 2011 through 2016 for which funds are authorized to be appropriated under subsection (a)—

(1) not less than 30 percent of the total amounts appropriated for that period shall be for research grants under section 11403(c)(3); and

(2) not less than 30 percent of the total amounts appropriated for that period shall be for recovery projects under section 11403(c)(4).

(c) ADMINISTRATIVE EXPENSES.—Of the amounts made available for each fiscal year to carry out this title, the Secretary may expend not more than the greater of 7 percent of the amounts, or $150,000, to pay the administrative expenses necessary to carry out this title.

SEC. 11405. TERMINATION.

This title shall have no force or effect on and after the date on which the Secretary (as that term is used in section 4(c)(2) of the Endangered Species Act of 1973 (16 U.S.C. 1533(c)(2)) publishes a determination that the southern sea otter should be removed from the lists published under section 4(c) of the Endangered Species Act of 1973 (16 U.S.C. 1533(c)).

TITLE CXV—INTERNATIONAL FISHERIES STEWARDSHIP AND ENFORCEMENT

SEC. 11501. SHORT TITLE.

This title may be cited as the ''International Fisheries Stewardship and Enforcement Act''.

Subtitle A—Administration and Enforcement of Certain Fishery and Related Statutes

SEC. 11511. AUTHORITY OF THE SECRETARY TO ENFORCE STATUTES.

(a) IN GENERAL.—

(1) ENFORCEMENT OF STATUTES.—The Secretary of Commerce and the Secretary of the department in which the Coast Guard is operating shall enforce the statutes to which this section applies in accordance with the provisions of this section.

(2) UTILIZATION OF NONDEPARTMENTAL RESOURCES.—The Secretary may, by agreement, on a reimbursable basis or otherwise, utilize the personnel services, equipment (including aircraft and vessels), and facilities of any other Federal agency, including all elements of the Department of Defense, and of any State agency, in carrying out this section.

(3) STATUTES TO WHICH APPLICABLE.—This section applies to—

(A) the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826d et seq.);

(B) the Pacific Salmon Treaty Act of 1985 (16 U.S.C. 3631 et seq.);

(C) the Dolphin Protection Consumer Information Act (16 U.S.C. 1385);

(D) the Tuna Conventions Act of 1950 (16 U.S.C. 951 et seq.);

(E) the North Pacific Anadromous Stocks Act of 1992 (16 U.S.C. 5001 et seq.);

(F) the South Pacific Tuna Act of 1988 (16 U.S.C. 973 et seq.);

(G) the Antarctic Marine Living Resources Convention Act of 1984 (16 U.S.C. 2431 et seq.);

(H) the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971 et seq.);

(I) the Northwest Atlantic Fisheries Convention Act of 1995 (16 U.S.C. 5601 et seq.);

(J) the Western and Central Pacific Fisheries Convention Implementation Act (16 U.S.C. 6901 et seq.);

(K) the Northern Pacific Halibut Act of 1982 (16 U.S.C. 773 et seq.);

(L) any other Act in pari materia, so designated by the Secretary after notice and an opportunity for a hearing; and

(M) the Antigua Convention Implementing Act of 2010.

(b) ADMINISTRATION AND ENFORCEMENT.—The Secretary shall prevent any person from violating any Act to which this section applies in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though sections 308 through 311 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1857 through 1861) were incorporated into and made a part of each such Act. Except as provided in subsection (c), any person that violates any Act to which this section applies is subject to the penalties, and entitled to the privileges and immunities, provided in the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) in the same manner and by the same means as though sections 308 through 311 of that Act were incorporated into and made a part of each such Act.

(c) SPECIAL RULES.—

(1) IN GENERAL.—Notwithstanding the incorporation by reference of certain sections of the Magnuson-Stevens Fishery Conservation and Management Act under subsection (b), if there is a conflict between a provision of this subsection and the corresponding provision of any section of the Magnuson-Stevens Fishery Conservation and Management Act so incorporated, the provision of this subsection shall apply.

(2) CIVIL ADMINISTRATIVE ENFORCEMENT.—The amount of the civil penalty for a violation of any Act to which this section applies shall not exceed $250,000 for each violation. Each day of a continuing violation shall constitute a separate violation.

(3) CIVIL JUDICIAL ENFORCEMENT.—The Attorney General, upon the request of the Secretary, may commence a civil action in an appropriate district court of the United States to enforce this title and any Act to which this section applies, and such court shall have jurisdiction to award civil penalties or such other relief as justice may require, including a permanent or temporary injunction. The amount of the civil penalty for a violation of any Act to which this section applies shall not exceed $250,000 for each violation. Each day of a continuing violation shall constitute a separate violation. In determining the amount of a civil penalty, the court shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior violations and such other matters as justice may require. In imposing such penalty, the district court may also consider information related to the ability of the violator to pay.

(4) CRIMINAL FINES AND PENALTIES.—

(A) INDIVIDUALS.—In the case of an individual, any offense described in subsection (e)(2), (3), (4), (5), or (6) is punishable by a fine of not more than $500,000, imprisonment for not more than 5 years, or both. If, in the commission of such offense, an individual uses a dangerous weapon, engages in conduct that causes bodily injury to any officer authorized to enforce the provisions of this title, or places any such officer in fear of imminent bodily injury the maximum term of imprisonment is 10 years.

(B) OTHER PERSONS.—In the case of any other person, any offense described in subsection (e)(2), (3), (4), (5), or (6) is punishable by a fine of not more than $1,000,000.

(5) OTHER CRIMINAL VIOLATIONS.—Any person (other than a foreign government or any entity of such government) who knowingly violates any provision of subsection (e) of this section, or any provision of any regulation promulgated pursuant to this title, is guilty of a criminal offense punishable—

(A) in the case of an individual, by a fine of not more than $500,000, imprisonment for not more than 5 years, or both; and

(B) in the case of any other person, by a fine of not more than $1,000,000.

(6) CRIMINAL FORFEITURES.—

(A) IN GENERAL.—A person found guilty of an offense described in subsection (e), or who is convicted of a criminal violation of any Act to which this section applies, shall forfeit to the United States—

(i) any property, real or personal, constituting or traceable to the gross proceeds obtained, or retained, as a result of the offense including any marine species (or the fair market value thereof) taken or retained in connection with or as a result of the offense; and

(ii) any property, real or personal, used or intended to be used to commit or to facilitate the commission of the offense, including any shoreside facility, including its conveyances, structure, equipment, furniture, appurtenances, stores, and cargo.

(B) PROCEDURE.—Pursuant to section 2461(c) of title 28, United States Code, the provisions of section 413 of the Controlled Substances Act (21 U.S.C. 853), other than subsection (d) thereof, shall apply to criminal forfeitures under this section.

(7) ADDITIONAL ENFORCEMENT AUTHORITY.—In addition to the powers of officers authorized pursuant to subsection (b), any officer who is authorized by the Secretary, or the head of any Federal or State agency that has entered into an agreement with the Secretary under subsection (a) to enforce the provisions of any Act to which this section applies may, with the same jurisdiction, powers, and duties as though section 311 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861) were incorporated into and made a part of each such Act—

(A) search or inspect any facility or conveyance used or employed in, or which reasonably appears to be used or employed in, the storage, processing, transport, or trade of fish or fish products;

(B) inspect records pertaining to the storage, processing, transport, or trade of fish or fish products;

(C) detain, for a period of up to 14 days, any shipment of fish or fish product imported into, landed on, introduced into, exported from, or transported within the jurisdiction of the United States, or, if such fish or fish product is deemed to be perishable, sell and retain the proceeds therefrom for a period of up to 14 days; and

(D) make an arrest, in accordance with any guidelines which may be issued by the Attorney General, for any offense under the laws of the United States committed in the person's presence, or for the commission of any felony under the laws of the United States, if the person has reasonable grounds to believe that the person to be arrested has committed or is committing a felony, search and seize, in accordance with any guidelines which may be issued by the Attorney General, and execute and serve any subpoena, arrest warrant, search warrant issued in accordance with rule 41 of the Federal Rules of Criminal Procedure, or other warrant or civil or criminal process issued by any officer or court of competent jurisdiction.

(8) SUBPOENAS.—In addition to any subpoena authority pursuant to subsection (b), the Secretary may, for the purposes of conducting any investigation under this section, or any other statute administered by the Secretary, issue subpoenas for the production of relevant papers, photographs, records, books, and documents in any form, including those in electronic, electrical, or magnetic form.

(d) DISTRICT COURT JURISDICTION.—The several district courts of the United States shall have jurisdiction over any actions arising under this section. For the purpose of this section, American Samoa shall be included within the judicial district of the District Court of the United States for the District of Hawaii. Each violation shall be a separate offense and the offense shall be deemed to have been committed not only in the district where the violation first occurred, but also in any other district as authorized by law. Any offenses not committed in any district are subject to the venue provisions of section 3238 of title 18, United States Code.

(e) PROHIBITED ACTS.—It is unlawful for any person—

(1) to violate any provision of this section or any Act to which this section applies or any regulation promulgated thereunder;

(2) to refuse to permit any authorized enforcement officer to board, search, or inspect a vessel, conveyance, or shoreside facility that is subject to the person's control for purposes of conducting any search, investigation, or inspection in connection with the enforcement of this section or any Act to which this section applies or any regulation promulgated thereunder;

(3) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any such authorized officer in the conduct of any search, investigation, or inspection described in paragraph (2);

(4) to resist a lawful arrest for any act prohibited by this section or any Act to which this section applies;

(5) to interfere with, delay, or prevent, by any means, the apprehension, arrest, or detection of another person, knowing that such person has committed any act prohibited by this section or any Act to which this section applies;

(6) to forcibly assault, resist, oppose, impede, intimidate, sexually harass, bribe, or interfere with any observer on a vessel under this section or any Act to which this section applies, or any data collector employed by or under contract to the National Marine Fisheries Service to carry out responsibilities under this section or any Act to which this section applies;

(7) to import, export, transport, sell, receive, acquire, or purchase in interstate or foreign commerce any fish or fish product taken, possessed, transported, or sold in violation of any treaty or binding conservation measure adopted pursuant to an international agreement or organization to which the United States is a party; or

(8) to make or submit any false record, account, or label for, or any false identification of, any fish or fish product (including false identification of the species, harvesting vessel or nation, or the location where harvested) which has been, or is intended to be imported, exported, transported, sold, offered for sale, purchased, or received in interstate or foreign commerce.

(f) REGULATIONS.—The Secretary may promulgate such regulations, in accordance with section 553 of title 5, United States Code, as may be necessary to carry out this section or any Act to which this section applies.

SEC. 11512. CONFORMING, MINOR, AND TECHNICAL AMENDMENTS.

(a) HIGH SEAS DRIFTNET FISHING MORATORIUM PROTECTION ACT.—

(1) ENFORCEMENT.—Section 606 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826g) is amended—

(A) by inserting ''(a) DETECTING, MONITORING, AND PREVENTING VIOLATIONS.—'' before ''The President''; and

(B) by adding at the end the following:

''(b) ENFORCEMENT.—This Act shall be enforced under section 11511 of the International Fisheries Stewardship and Enforcement Act.''.

(2) BIENNIAL REPORT ON INTERNATIONAL COMPLIANCE.—Section 607(2) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826h(2)) is amended by striking ''whose vessels'' and inserting ''that''.

(3) ILLEGAL, UNREPORTED, OR UNREGULATED FISHING.—

(A) IDENTIFICATION.—Section 609(a) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826j(a)) is amended to read as follows:

''(a) IDENTIFICATION.—

''(1) IN GENERAL.—The Secretary shall identify, and list in the report under section 607, a nation if that nation is engaged, or has been engaged at any time during the preceding 3 years, in illegal, unreported, or unregulated fishing and—

''(A) such fishing undermines the effectiveness of measures required under the relevant international fishery management organization;

''(B) the relevant international fishery management organization has failed to implement effective measures to end the illegal, unreported, or unregulated fishing activity by vessels of that nation, or the nation is not a party to, or does not maintain cooperating status with, such organization; or

''(C) there is no international fishery management organization with a mandate to regulate the fishing activity in question.

''(2) OTHER IDENTIFYING ACTIVITIES.—The Secretary shall also identify, and list in the report under section 607, a nation if—

''(A) it is violating, or has violated at any time during the preceding 3 years, conservation and management measures required under an international fishery management agreement to which the United States is a party and the violations undermine the effectiveness of such measures, taking into account the factors described in paragraph (1); or

''(B) it is failing, or has failed at any time during the preceding 3 years, to effectively address or regulate illegal, unreported, or unregulated fishing in areas described in paragraph (1)(C).

''(3) TREATMENT OF CERTAIN ENTITIES AS IF THEY WERE NATIONS.—Where the provisions of this Act apply to the act, or failure to act, of a nation, they shall also be applicable, as appropriate, to any other entity that is competent to enter into an international fishery management agreement.''.

(B) IUU CERTIFICATION PROCEDURE.—

(i) CERTIFICATION.—Section 609(d)(1) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826j(d)(1)) is amended by striking ''of its fishing vessels'' each place it appears.

(ii) ALTERNATIVE PROCEDURE.—Section 609(d)(2) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826j(d)(2)) is amended—

(I) by striking ''procedure for certification,'' and inserting ''procedure,'';

(II) by striking ''basis of fish'' and inserting ''basis, for allowing importation of fish''; and

(III) by striking ''harvesting nation not certified under paragraph (1)'' and inserting ''nation issued a negative certification under paragraph (1)''.

(4) EQUIVALENT CONSERVATION MEASURES.—Section 610(a)(1) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826k(a)(1)) is amended—

(A) by striking ''calendar year'' and inserting ''3 years''; and

(B) by striking ''practices;'' and inserting ''practices—''.

(b) DOLPHIN PROTECTION CONSUMER INFORMATION ACT.—Section 901 of the Dolphin Protection Consumer Information Act (16 U.S.C. 1385) is amended—

(1) by adding at the end of subsection (d) the following:

''(4) It is a violation of section 11511 of the International Fisheries Stewardship and Enforcement Act for any person to assault, resist, oppose, impede, intimidate, or interfere with and authorized officer in the conduct of any search, investigation or inspection under this Act.''; and

(2) by striking subsection (e) and inserting the following:

''(e) ENFORCEMENT.—This Act shall be enforced under section 11511 of the International Fisheries Stewardship and Enforcement Act.''.

(c) TUNA CONVENTIONS ACT OF 1950.—Section 8 of the Tuna Conventions Act of 1950 (16 U.S.C. 957) is amended—

(1) by striking ''regulations.'' in subsection (a) and inserting ''regulation or for any person to make or submit any false record, account, or label for, or any false identification of, any fish or fish product (including the false identification of species, harvesting vessel or nation or the location where harvested) which has been, or is intended to be imported, exported, transported, sold, offered for sale, purchased, or received in interstate or foreign commerce.'';

(2) by striking subsection (d) and inserting the following:

''(d) It shall be unlawful for any person—

''(1) to refuse to permit any officer authorized to enforce the provisions of this Act to board a fishing vessel subject to such person's control for purposes of conducting any search, investigation, or inspection in connection with the enforcement of this Act or any regulation promulgation or permit issued under this Act;

''(2) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any such authorized officer in the conduct of any search, investigation or inspection described in paragraph (1);

''(3) to resist a lawful arrest for any act prohibited by this section; or

''(4) to interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has committed any act prohibited by this section.'';

(3) by striking subsections (e) through (g) and redesignating subsection (h) as subsection (f); and

(4) by inserting after subsection (d) the following:

''(e) ENFORCEMENT.—This section shall be enforced under section 11511 of the International Fisheries Stewardship and Enforcement Act.''.

(d) NORTHERN PACIFIC ANADROMOUS STOCKS ACT OF 1992.—

(1) UNLAWFUL ACTIVITIES.—Section 810 of the Northern Pacific Anadromous Stocks Act of 1992 (16 U.S.C. 5009) is amended—

(A) by striking ''purchases'' in paragraph (5) and inserting ''purposes'';

(B) by striking ''search or inspection'' in paragraph (5) and inserting ''search, investigation, or inspection'';

(C) by striking ''search or inspection'' in paragraph (6) and inserting ''search, investigation, or inspection'';

(D) by striking ''or'' after the semicolon in paragraph (8);

(E) by striking ''title.'' in paragraph (9) and inserting ''title; or''; and

(F) by adding at the end the following:

''(10) for any person to make or submit any false record, account, or label for, or any false identification of, any fish or fish product (including false identification of the species, harvesting vessel or nation, or the location where harvested) which has been, or is intended to be imported, exported, transported, sold, offered for sale, purchased, or received in interstate or foreign commerce.''.

(2) ADMINISTRATION AND ENFORCEMENT.—Section 811 of the Northern Pacific Anadromous Stocks Act of 1992 (16 U.S.C. 5010) is amended to read as follows:

''SEC. 811. ADMINISTRATION AND ENFORCEMENT.

''This Act shall be enforced under section 11511 of the International Fisheries Stewardship and Enforcement Act.''.

(e) PACIFIC SALMON TREATY ACT OF 1985.—Section 8 of the Pacific Salmon Treaty Act of 1985 (16 U.S.C. 3637) is amended—

(1) by striking ''search or inspection'' in subsection (a)(2) and inserting ''search, investigation, or inspection'';

(2) by striking ''search or inspection'' in subsection (a)(3) and inserting ''search, investigation, or inspection'';

(3) by striking ''or'' after the semicolon in subsection (a)(5);

(4) by striking ''section.'' in subsection (a)(6) and inserting ''section; or'';

(5) by adding at the end of subsection (a) the following:

''(7) for any person to make or submit any false record, account, or label for, or any false identification of, any fish or fish product (including false identification of the species, harvesting vessel or nation, or the location where harvested) which has been, or is intended to be imported, exported, transported, sold, offered for sale, purchased, or received in interstate or foreign commerce.''; and

(6) by striking subsections (b) through (f) and inserting the following:

''(b) ADMINISTRATION AND ENFORCEMENT.—This Act shall be enforced under section 11511 of the International Fisheries Stewardship and Enforcement Act.''.

(f) SOUTH PACIFIC TUNA ACT OF 1988.—

(1) PROHIBITED ACTS.—Section 5(a) of the South Pacific Tuna Act of 1988 (16 U.S.C. 973c(a)) is amended—

(A) by striking ''search or inspection'' in paragraph (8) and inserting ''search, investigation, or inspection'';

(B) by striking ''search or inspection'' in paragraph (10)(A) and inserting ''search, investigation, or inspection'';

(C) by striking ''or'' after the semicolon in paragraph (12);

(D) by striking '' retained.'' in paragraph (13) and inserting ''retained; or''; and

(E) by adding at the end the following:

''(14) for any person to make or submit any false record, account, or label for, or any

false identification of, any fish or fish product (including false identification of the species, harvesting vessel or nation, or the location where harvested) which has been, or is intended to be imported, exported, transported, sold, offered for sale, purchased, or received in interstate or foreign commerce.''.

(2) ADMINISTRATION AND ENFORCEMENT.—The South Pacific Tuna Act of 1988 (16 U.S.C. 973 et seq.) is amended by striking sections 7 and 8 (16 U.S.C. 973e and 973f) and inserting the following:

''SEC. 7. ADMINISTRATION AND ENFORCEMENT.

''This Act shall be enforced under section 11511 of the International Fisheries Stewardship and Enforcement Act.''.

(g) ANTARCTIC MARINE LIVING RESOURCES CONVENTION ACT OF 1984.—

(1) UNLAWFUL ACTIVITIES.—Section 306 of the Antarctic Marine Living Resources Convention Act (16 U.S.C. 2435) is amended—

(A) by striking ''which he knows, or reasonably should have known, was'' in paragraph (3);

(B) by striking ''search or inspection'' in paragraph (4) and inserting ''search, investigation, or inspection'';

(C) by striking ''search or inspection'' in paragraph (5) and inserting ''search, investigation, or inspection'';

(D) by striking ''or'' after the semicolon in paragraph (6);

(E) by striking ''section.'' in paragraph (7) and inserting ''section; or''; and

(F) by adding at the end the following:

''(8) to make or submit any false record, account, or label for, or any false identification of, any fish or fish product (including false identification of the species, harvesting vessel or nation, or the location where harvested) which has been, or is intended to be imported, exported, transported, sold, offered for sale, purchased, or received in interstate or foreign commerce.''.

(2) REGULATIONS.—Section 307 of the Antarctic Marine Living Resources Convention Act (16 U.S.C. 2436) is amended by adding ''Notwithstanding the provisions of subsections (b), (c), and (d) of section 553 of title 5, United States Code, the Secretary of Commerce may publish in the Federal Register a final rule to implement conservation measures, described in section 635(a) of this title, that are in effect for 12 months or less, adopted by the Commission, and not objected to by the United States within the time period allotted under Article IX of the Convention. Upon publication in the Federal Register, such conservation measures shall be in force with respect to the United States.'' after ''title.''.

(3) PENALTIES AND ENFORCEMENT.—The Antarctic Marine Living Resources Convention Act (16 U.S.C. 2431 et seq.) is amended—

(A) by striking sections 308 and 309 (16 U.S.C. 2437 and 2438);

(B) by striking subsection (b), (c), and (d) of section 310 (16 U.S.C. 2439) and redesignating subsection (e) as subsection (c); and

(C) by inserting after subsection (a) the following:

''(b) ADMINISTRATION AND ENFORCEMENT.—This Act shall be enforced under section 11511 of the International Fisheries Stewardship and Enforcement Act.''.

(h) ATLANTIC TUNAS CONVENTION ACT OF 1975.—

(1) VIOLATIONS.—Section 7 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971e) is amended—

(A) by striking subsections (e) and (f) and redesignating subsection (g) as subsection (f); and

(B) by inserting after subsection (d) the following:

''(e) MISLABELING.—It shall be unlawful for any person to make or submit any false record, account, or label for, or any false identification of, any fish or fish product (including the false identification of the species, harvesting vessel or nation, or the location where harvested) which has been, or is intended to be, imported, exported, transported, sold, offered for sale, purchased or received in interstate or foreign commerce.''.

(2) ENFORCEMENT.—Section 8 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971f) is amended—

(A) by striking subsections (a) and (c);

(B) by striking ''(b) INTERNATIONAL ENFORCEMENT.—'' in subsection (b) and inserting ''This Act shall be enforced under section 11511 of the International Fisheries Stewardship and Enforcement Act.''; and

(C) by striking ''shall have the authority to carry out the enforcement activities specified in section 8(a) of this Act'' each place it appears and inserting ''shall enforce this Act''.

(i) NORTHWEST ATLANTIC FISHERIES CONVENTION ACT OF 1995.—Section 207 of the Northwest Atlantic Fisheries Convention Act of 1995 (16 U.S.C. 5606) is amended—

(1) in the section heading, by striking ''**PENALTIES.**'' and inserting ''**ENFORCEMENT.**''

(2) in subsection (a)—

(A) in paragraph (2), by striking ''search or inspection'' and inserting ''search, investigation, or inspection'';

(B) in paragraph (3), by striking ''search or inspection'' and inserting ''search, investigation, or inspection'';

(C) in paragraph (5), by striking ''or'' after the semicolon;

(D) in paragraph (6), by striking ''section.'' and inserting ''section; or''; and

(E) by adding at the end the following:

''(7) to make or submit any false record, account, or label for, or any false identification of, any fish or fish product (including false identification of the species, harvesting vessel or nation, or the location where harvested) which has been, or is intended to be imported, exported, transported, sold, offered for sale, purchased, or received in interstate or foreign commerce.''; and

(3) by striking subsections (b) through (f) and inserting the following:

''(b) ADMINISTRATION AND ENFORCEMENT.—This title shall be enforced under section 11511 of the International Fisheries Stewardship and Enforcement Act.''.

(j) WESTERN AND CENTRAL PACIFIC FISHERIES CONVENTION IMPLEMENTATION ACT.—

(1) ADMINISTRATION AND ENFORCEMENT.—Section 506(c) of the Western and Central Pacific Fisheries Convention Implementation Act (16 U.S.C. 6905(c)) is amended to read as follows:

''(c) ADMINISTRATION AND ENFORCEMENT.—This title shall be enforced under section 11511 of the International Fisheries Stewardship and Enforcement Act.''.

(2) PROHIBITED ACTS.—Section 507(a) of the Western and Central Pacific Fisheries Convention Implementation Act (16 U.S.C. 6906(a)) is amended—

(A) by striking ''suspension, on'' in paragraph (2) and inserting ''suspension of'';

(B) by striking ''title.'' in paragraph (14) and inserting ''title; or''; and

(C) by adding at the end the following:

''(15) to make or submit any false record, account, or label for, or any false identification of, any fish or fish product (including false identification of the species, harvesting vessel or nation, or the location where harvested) which has been, or is intended to be imported, exported, transported, sold, offered for sale, purchased, or received in interstate or foreign commerce.''.

(k) NORTHERN PACIFIC HALIBUT ACT OF 1982.—

(1) PROHIBITED ACTS.—Section 7 of the Northern Pacific Halibut Act of 1982 (16 U.S.C. 773e) is amended—

(A) by redesignating subdivisions (a) and (b) as paragraphs (1) and (2), respectively, and subdivisions (1) through (6) of paragraph (1), as redesignated, as subparagraphs (A) through (F);

(B) by striking ''search or inspection'' in paragraph (1)(B), as redesignated, and inserting ''search, investigation, or inspection'';

(C) by striking ''search or inspection'' in paragraph (1)(C), as redesignated, and inserting ''search, investigation, or inspection'';

(D) by striking ''or'' after the semicolon in paragraph (1)(E), as redesignated;

(E) by striking ''section.'' in paragraph (1)(F), as redesignated, and inserting ''section;''; and

(F) by adding at the end of paragraph (1), as redesignated, the following:

''(G) to make or submit any false record, account, or label for, or any false identification of, any fish or fish product (including false identification of the species, harvesting vessel or nation, or the location where harvested) which has been, or is intended to be imported, exported, transported, sold, offered for sale, purchased, or received in interstate or foreign commerce.''.

(2) ADMINISTRATION AND ENFORCEMENT.—The Northern Pacific Halibut Act of 1982 (16 U.S.C. 773 et seq.) is amended—

(A) by striking sections 3, 9, and 10 (16 U.S.C. 773f, 773g, and 773h); and

(B) by striking subsections (b) through (f) of section 11 (16 U.S.C. 773i) and inserting the following:

''(b) ADMINISTRATION AND ENFORCEMENT.—This Act shall be enforced under section 11511 of the International Fisheries Stewardship and Enforcement Act.''.

SEC. 11513. ILLEGAL, UNREPORTED, OR UNREGULATED FISHING.

(a) IN GENERAL.—Section 608 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826i), as amended by section 11532 of this division, is further amended by adding at the end the following:

''(c) VESSELS AND VESSEL OWNERS ENGAGED IN ILLEGAL, UNREPORTED, OR UNREGULATED FISHING.—The Secretary may—

''(1) develop, maintain, and make public a list of vessels and vessel owners engaged in illegal, unreported, or unregulated fishing, including vessels or vessel owners identified by an international fishery management organization or arrangement made pursuant to an international fishery agreement, whether or not the United States is a party to such organization or arrangement;

''(2) take appropriate action against listed vessels and vessel owners, including action against fish, fish parts, or fish products from such vessels, in accordance with applicable United States law and consistent with applicable international law, including principles, rights, and obligations established in applicable international fishery management and trade agreements; and

''(3) provide notification to the public of vessels and vessel owners identified by international fishery management organizations or arrangements made pursuant to an international fishery agreement as having been engaged in illegal, unreported, or unregulated fishing, as well as any measures adopted by such organizations or arrangements to address illegal, unreported, or unregulated fishing.

''(d) RESTRICTIONS ON PORT ACCESS OR USE.—Action taken by the Secretary under subsection (c)(2) that includes measures to restrict use of or access to ports or port services shall apply to all ports of the United States and its territories.

''(e) REGULATIONS.—The Secretary may promulgate regulations to implement subsections (c) and (d).''.

(b) ADDITIONAL MEASURES.—

(1) AMENDMENT OF THE HIGH SEAS DRIFTNET FISHING MORATORIUM PROTECTION ACT.—

(A) IUU CERTIFICATION PROCEDURE; EFFECT OF CERTIFICATION.—Section 609(d)(3) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826j(d)(3)) is amended by striking ''that has not been certified by the Secretary under this subsection, or'' in subparagraph (A)(i).

(B) CONSERVATION CERTIFICATION PROCEDURE; EFFECT OF CERTIFICATION.—Section 610(c)(5) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826k(c)(5)) is amended by striking ''that has not been certified by the Secretary under this subsection, or''.

(2) AMENDMENT OF THE HIGH SEAS DRIFTNET FISHERIES ENFORCEMENT ACT.—

(A) DENIAL OF PORT PRIVILEGES.—Section 101 of the High Seas Driftnet Fisheries Enforcement Act (16 U.S.C. 1826a) is amended—

(i) by striking subsection (a)(2) and inserting the following:

''(2) DENIAL OF PORT PRIVILEGES.—The Secretary of the Treasury shall, in accordance with recognized principles of international law—

''(A) withhold or revoke the clearance required by section 60105 of title 46, United States Code, for—

''(i) any large-scale driftnet fishing vessel that is documented under the law of the United States or of a nation included on a list published under paragraph (1); or

''(ii) any fishing vessel of a nation that receives a negative certification under section 609(d) or 610(c) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826j(d) or 1826k(c)); and

''(B) deny entry of that vessel to any place in the United States and to the navigable waters of the United States, except for the purpose of inspecting the vessel, conducting an investigation, or taking other appropriate enforcement action.'';

(ii) by striking ''or illegal, unreported, or unregulated fishing'' each place it appears in subsection (b)(1) and (2);

(iii) by striking ''or'' after the semicolon in subsection (b)(3)(A)(i);

(iv) by striking ''nation.'' in subsection (b)(3)(A)(ii) and inserting ''nation; or'';

(v) by adding at the end of subsection (b)(3)(A) the following:

''(iii) upon receipt of notification of a negative certification under section 609(d)(1) or 610(c)(1) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826j(d)(1) or 1826k(c)(1)).'';

(vi) by inserting ''or after issuing a negative certification under section 609(d)(1) or 610(c)(1) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826j(d)(1) and 1826k(c)(1)),'' after ''paragraph (1),'' in subsection (b)(4)(A); and

(vii) by striking subsection (b)(4)(A)(i) and inserting the following:

''(i) any prohibition established under paragraph (3) is insufficient to cause that nation—

''(I) to terminate large-scale driftnet fishing conducted by its nationals and vessels beyond the exclusive economic zone of any nation;

''(II) to address illegal, unreported, or unregulated fishing activities for which a nation has been identified under section 609 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826j); or

''(III) to address bycatch of a protected living marine resource for which a nation has been identified under section 610 of such Act (16 U.S.C. 1826k); or''.

(B) DURATION OF DENIAL OF PORT PRIVILEGES AND SANCTIONS.—Section 102 of the High Seas Driftnet Fisheries Enforcement Act (16 U.S.C. 1826b) is amended by striking ''such nation has terminated large-scale driftnet fishing or illegal, unreported, or unregulated fishing by its nationals and vessels beyond the exclusive economic zone of any nation.'' and inserting ''such nation has—

''(1) terminated large-scale driftnet fishing by its nationals and vessels beyond the exclusive economic zone of any nation;

''(2) addressed illegal, unreported, or unregulated fishing activities for which a nation has been identified under section 609 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826j); or

''(3) addressed bycatch of a protected living marine resource for which a nation has been identified under section 610 of that Act (16 U.S.C. 1826k).''.

SEC. 11514. LIABILITY.

Any claims arising from the actions of any officer, authorized by the Secretary to enforce the provisions of this title or any Act to which this title applies, taken pursuant to any scheme for at-sea boarding and inspection authorized under any international agreement to which the United States is a party may be pursued under chapter 171 of title 28, United States Code, or such other legal authority as may be pertinent.

Subtitle B—Law Enforcement and International Operations

SEC. 11521. INTERNATIONAL FISHERIES ENFORCEMENT PROGRAM.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Within 12 months after the date of the enactment of this Act, the Secretary shall, subject to the availability of appropriations, establish an International Fisheries Enforcement Program within the Office of Law Enforcement of the National Marine Fisheries Service.

(2) PURPOSE.—The Program shall be an interagency program established and administered by the Secretary in coordination with the heads of other departments and agencies for the purpose of detecting and investigating illegal, unreported, or unregulated fishing activity and enforcing the provisions of this title.

(3) STAFF.—The Program shall be staffed with representation from the U.S. Coast Guard, U.S. Customs and Border Protection, U.S. Food and Drug Administration, and any other department or agency determined by the Secretary to be appropriate and necessary to detect and investigate illegal, unreported, or unregulated fishing activity and enforce the provisions of this title.

(b) PROGRAM ACTIONS.—

(1) STAFFING AND OTHER RESOURCES.—At the request of the Secretary, the heads of other departments and agencies providing staff for the Program shall—

(A) by agreement, on a reimbursable basis or otherwise, participate in staffing the Program;

(B) by agreement, on a reimbursable basis or otherwise, share personnel, services, equipment (including aircraft and vessels), and facilities with the Program; and

(C) to the extent possible, and consistent with other applicable law, extend the enforcement authorities provided by their enabling legislation to the other departments and agencies participating in the Program for the purposes of conducting joint operations to detect and investigate illegal, unreported or unregulated fishing activity and enforcing the provisions of this title.

(2) BUDGET.—The Secretary and the heads of other departments and agencies providing staff for the Program, may, at their discretion, develop interagency plans and budgets and engage in interagency financing for such purposes.

(3) 5-YEAR PLAN.—Within 180 days after the date on which the Program is established under subsection (a), the Secretary shall develop a 5-year strategic plan for guiding interagency and intergovernmental international fisheries enforcement efforts to carry out the provisions of this title. The Secretary shall update the plan periodically as necessary, but at least once every 5 years.

(4) COOPERATIVE ACTIVITIES.—The Secretary, in coordination with the heads of other departments and agencies providing staff for the Program, may—

(A) create and participate in task forces, committees, or other working groups with other Federal, State or local governments as well as with the governments of other nations for the purposes of detecting and investigating illegal, unreported, or unregulated fishing activity and carrying out the provisions of this title; and

(B) enter into agreements with other Federal, State, or local governments as well as with the governments of other nations, on a reimbursable basis or otherwise, for such purposes.

(c) POWERS OF AUTHORIZED OFFICERS.—Notwithstanding any other provision of law, while operating under an agreement with the Secretary entered into under section 11511 of this title, and conducting joint operations as part of the Program for the purposes of detecting and investigating illegal, unreported or unregulated fishing activity and enforcing the provisions of this title, authorized officers shall have the powers and authority provided in that section.

(d) INFORMATION COLLECTION, MAINTENANCE AND USE.—

(1) IN GENERAL.—The Secretary and the heads of other departments and agencies providing staff for the Program shall, to the maximum extent allowable by law, share all applicable information, intelligence, and data related to the harvest, transportation, or trade of fish and fish product in order to detect and investigate illegal, unreported, or unregulated fishing activity and to carry out the provisions of this title.

(2) COORDINATION OF DATA.—The Secretary, through the Program, shall coordinate the collection, storage, analysis, and dissemination of all applicable information, intelligence, and data related to the harvest, transportation, or trade of fish and fish product collected or maintained by the member agencies of the Program.

(3) CONFIDENTIALITY.—The Secretary, through the Program, shall ensure the protection and confidentiality required by law for information, intelligence, and data related to the harvest, transportation, or trade of fish and fish product obtained by the Program.

(4) DATA STANDARDIZATION.—The Secretary and the heads of other departments and agencies providing staff for the Program shall, to the maximum extent practicable, develop data standardization for fisheries related data for Program agencies and with international fisheries enforcement databases as appropriate.

(5) ASSISTANCE FROM INTELLIGENCE COMMUNITY.—Upon request of the Secretary, elements of the intelligence community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4))) shall collect information related to illegal, unreported, or unregulated fishing activity outside the United States about individuals who are not United States persons (as defined in section 105A(c)(2) of such Act (50 U.S.C. 403–5a(c)(2))). Such elements of the intelligence community shall collect and share such information with the Secretary through the Program for law enforcement purposes in order to detect and investigate illegal, unreported, or unregulated fishing activities and to carry out the provisions of this title. All collection and sharing of information shall be in accordance with the National Security Act of 1947 (50 U.S.C. 401 et seq.).

(6) INFORMATION SHARING.—The Secretary, through the Program, shall have authority

to share fisheries-related data with other Federal or State government agency, foreign government, the Food and Agriculture Organization of the United Nations, or the secretariat or equivalent of an international fisheries management organization or arrangement made pursuant to an international fishery agreement, if—

(A) such governments, organizations, or arrangements have policies and procedures to safeguard such information from unintended or unauthorized disclosure; and

(B) the exchange of information is necessary—

(i) to ensure compliance with any law or regulation enforced or administered by the Secretary;

(ii) to administer or enforce treaties to which the United States is a party;

(iii) to administer or enforce binding conservation measures adopted by any international organization or arrangement to which the United States is a party;

(iv) to assist in investigative, judicial, or administrative enforcement proceedings in the United States; or

(v) to assist in any fisheries or living marine resource related law enforcement action undertaken by a law enforcement agency of a foreign government, or in relation to a legal proceeding undertaken by a foreign government.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $30,000,000 to the Secretary for each of fiscal years 2011 through 2016 to carry out this section.

SEC. 11522. INTERNATIONAL COOPERATION AND ASSISTANCE PROGRAM.

(a) INTERNATIONAL COOPERATION AND ASSISTANCE PROGRAM.—The Secretary may establish an international cooperation and assistance program, including grants, to provide assistance for international capacity building efforts.

(b) AUTHORIZED ACTIVITIES.—In carrying out the program, the Secretary may—

(1) provide funding and technical expertise to other nations to assist them in addressing illegal, unreported, or unregulated fishing activities;

(2) provide funding and technical expertise to other nations to assist them in reducing the loss and environmental impacts of derelict fishing gears, reducing the bycatch of living marine resources, and promoting international marine resource conservation;

(3) provide funding, technical expertise, and training, in cooperation with the International Fisheries Enforcement Program under section 11521 of this title, to other nations to aid them in building capacity for enhanced fisheries management, fisheries monitoring, catch and trade tracking activities, enforcement, and international marine resource conservation;

(4) establish partnerships with other Federal agencies, as appropriate, to ensure that fisheries development assistance to other nations is directed toward projects that promote sustainable fisheries; and

(5) conduct outreach and education efforts in order to promote public and private sector awareness of international fisheries sustainability issues, including the need to combat illegal, unreported, or unregulated fishing activity and to promote international marine resource conservation.

(c) GUIDELINES.—The Secretary may establish guidelines necessary to implement the program.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary $5,000,000 for each of fiscal years 2011 through 2016 to carry out this section.

Subtitle C—Miscellaneous Amendments

SEC. 11531. ATLANTIC TUNAS CONVENTION ACT OF 1975.

(a) ELIMINATION OF ANNUAL REPORT.—Section 11 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971j) is repealed.

(b) CERTAIN REGULATIONS.—Section 6(c)(2) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971d(c)(2)) is amended—

(1) by inserting ''(A)'' after ''(2)'';

(2) by striking ''(A) submission'' and inserting ''the presentation'';

(3) by striking ''arguments, and (B) oral presentation at a public hearing. Such'' and inserting ''written or oral statements at a public hearing. After consideration of such presentations, the''; and

(4) by adding at the end the following:

''(B) The Secretary may issue final regulations to implement Commission recommendations referred to in paragraph (1) of this subsection concerning trade restrictive measures against nations or fishing entities without regard to the requirements of subparagraph (A) of this paragraph and subsections (b) and (c) of section 553 of title 5, United States Code.''.

SEC. 11532. DATA SHARING.

(a) HIGH SEAS DRIFTNET FISHING MORATORIUM PROTECTION ACT.—Section 608 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826i), as amended by section 11202 of this division, is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''The Secretary,'';

(2) by striking ''organizations'' the first place it appears and inserting, ''organizations, or arrangements made pursuant to an international fishery agreement (as defined in section 3(24) of the Magnuson-Stevens Fishery Conservation and Management Act),'';

(3) by striking ''and'' after the semicolon in paragraph (3), as added by section 11202 of this division;

(4) by striking ''territories.'' in paragraph (4), as redesignated by section 11202 of this division, and inserting ''territories; and''; and

(5) by adding at the end the following:

''(5) urging other nations, through the regional fishery management organizations of which the United States is a member, bilaterally and otherwise to seek and foster the sharing of accurate, relevant, and timely information—

''(A) to improve the scientific understanding of marine ecosystems;

''(B) to improve fisheries management decisions;

''(C) to promote the conservation of protected living marine resources;

''(D) to combat illegal, unreported, and unregulated fishing; and

''(E) to improve compliance with conservation and management measures in international waters.

''(b) INFORMATION SHARING.—In carrying out this section, the Secretary may disclose, as necessary and appropriate, information to the Food and Agriculture Organization of the United Nations, international fishery management organizations (as so defined), or arrangements made pursuant to an international fishery agreement, if such organizations or arrangements have policies and procedures to safeguard such information from unintended or unauthorized disclosure.''.

(b) CONFORMING AMENDMENT.—Section 402(b)(1) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1881a(b)(1)) is amended—

(1) by striking ''or'' after the semicolon in subparagraph (G);

(2) by redesignating subparagraph (H) as subparagraph (J); and

(3) by inserting after subparagraph (G) the following:

''(H) to the Food and Agriculture Organization of the United Nations, international fishery management organizations, or arrangements made pursuant to an international fishery agreement as provided for in the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826i(b));

''(I) to any other Federal or State government agency, foreign government, the Food and Agriculture Organization of the United Nations, or the secretariat or equivalent of an international fisheries management organization or arrangement made pursuant to an international fishery agreement, as provided in section 621(d)(6) of the International Fisheries Stewardship and Enforcement Act; or''.

SEC. 11533. PERMITS UNDER THE HIGH SEAS FISHING COMPLIANCE ACT OF 1995.

Section 104(f) of the High Seas Fishing Compliance Act (16 U.S.C. 5503(f)) is amended to read as follows:

''(f) VALIDITY.—A permit issued under this section is void if—

''(1) 1 or more permits or authorizations required for a vessel to fish, in addition to a permit issued under this section, expire, are revoked, or are suspended; or

''(2) the vessel is no longer eligible for United States documentation, such documentation is revoked or denied, or the vessel is deleted from such documentation.''.

SEC. 11534. TECHNICAL CORRECTIONS TO THE WESTERN AND CENTRAL PACIFIC FISHERIES CONVENTION IMPLEMENTATION ACT.

Section 503 of the Western and Central Pacific Fisheries Convention Implementation Act (16 U.S.C. 6902) is amended—

(1) by striking ''Management Council and'' in subsection (a) and inserting ''Management Council, and one of whom shall be the chairman or a member of'';

(2) by striking subsection (c)(1) and inserting the following:

''(1) EMPLOYMENT STATUS.—Individuals serving as such Commissioners, other than officers or employees of the United States Government, shall not be considered Federal employees except for the purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5, United States Code, and chapter 171 of title 28, United States Code.''; and

(3) by striking subsection (d)(2)(B)(ii) and inserting the following:

''(ii) shall not be considered Federal employees except for the purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5, United States Code, and chapter 171 of title 28, United States Code.''.

SEC. 11535. PACIFIC WHITING ACT OF 2006.

(a) SCIENTIFIC EXPERTS.—Section 605(a)(1) of the Pacific Whiting Act of 2006 (16 U.S.C. 7004(a)(1)) is amended by striking ''at least 6 but not more than 12'' inserting ''no more than 2''.

(b) EMPLOYMENT STATUS.—Section 609(a) of the Pacific Whiting Act of 2006 (16 U.S.C. 7008(a)) is amended to read as follows:

''(a) EMPLOYMENT STATUS.—Individuals appointed under section 603, 604, 605, or 606 of this title, other than officers or employees of the United States Government, shall not be considered to be Federal employees while performing such service, except for purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5, United States Code, and chapter 171 of title 28, United States Code.''.

SEC. 11536. CLARIFICATION OF EXISTING AUTHORITY.

Notwithstanding any other provision of law, the Secretary of Commerce may promulgate regulations that allow for the replacement or rebuilding of a vessel qualified

under subsections (a)(7) and (g)(1)(A) of section 219 of the Department of Commerce and Related Agencies Appropriations Act, 2005 (Public Law 108–447; 118 Stat. 2886).

SEC. 11537. REAUTHORIZATIONS.

(a) INTERNATIONAL DOLPHIN CONSERVATION PROGRAM.—Section 304(c)(1) of the Marine Mammal Protection Act (16 U.S.C. 1414a(c)(1)) is amended by adding at the end the following:

''(5) $1,000,000 for each of fiscal years 2011 through 2015.''.

(b) PACIFIC SALMON TREATY ACT OF 1985.—Section 16(d)(2)(A) of the Pacific Salmon Treaty Act of 1985 (16 U.S.C. 3645(d)(2)(A)) is amended by striking ''and 2009,'' and inserting ''2009, 2010, 2011, 2012, 2013, 2014, and 2015''.

(c) SOUTH PACIFIC TUNA ACT OF 1988.—Section 20(a) of the South Pacific Tuna Act of 1988 (16 U.S.C. 973r(a)) is amended by striking ''1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, and 2002,'' each place it appears and inserting ''2011 through 2015''.

Subtitle D—Implementation of the Antigua Convention

SEC. 11541. SHORT TITLE.

This title may be cited as the ''Antigua Convention Implementing Act of 2010''.

SEC. 11542. AMENDMENT OF THE TUNA CONVENTIONS ACT OF 1950.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Tuna Conventions Act of 1950 (16 U.S.C. 951 et seq.).

SEC. 11543. DEFINITIONS.

Section 2 (16 U.S.C. 951) is amended to read as follows:

''SEC. 2. DEFINITIONS.

''In this Act:

''(1) ANTIGUA CONVENTION.—The term 'Antigua Convention' means the Convention for the Strengthening of the Inter-American Tropical Tuna Commission Established by the 1949 Convention Between the United States of America and the Republic of Costa Rica, signed at Washington, November 14, 2003.

''(2) COMMISSION.—The term 'Commission' means the Inter-American Tropical Tuna Commission provided for by the Convention.

''(3) CONVENTION.—The term 'Convention' means—

''(A) the Convention for the Establishment of an Inter-American Tropical Tuna Commission, signed at Washington, May 31, 1949, by the United States of America and the Republic of Costa Rica;

''(B) the Antigua Convention, upon its entry into force for the United States, and any amendments thereto that are in force for the United States; or

''(C) both such Conventions, as the context requires.

''(4) IMPORT.—The term 'import' means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, whether or not such landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the United States.

''(5) PERSON.—The term 'person' means an individual, partnership, corporation, or association subject to the jurisdiction of the United States.

''(6) UNITED STATES.—The term 'United States' includes all areas under the sovereignty of the United States.

''(7) U.S. COMMISSIONERS.—The term 'U.S. commissioners' means the members of the commission.

''(8) U.S. SECTION.—The term 'U.S. section' means the U.S. Commissioners to the Commission and a designee of the Secretary of State.''.

SEC. 11544. COMMISSIONERS, NUMBER, APPOINTMENT, AND QUALIFICATIONS.

Section 3 (16 U.S.C. 952) is amended to read as follows:

''SEC. 3. COMMISSIONERS.

''(a) COMMISSIONERS.—The United States shall be represented on the Commission by 5 United States Commissioners. The President shall appoint individuals to serve on the Commission at the pleasure of the President. In making the appointments, the President shall select Commissioners from among individuals who are knowledgeable or experienced concerning highly migratory fish stocks in the eastern tropical Pacific Ocean, one of whom shall be an officer or employee of the Department of Commerce, one of whom shall be the chairman or a member of the Western Pacific Fishery Management Council, and one of whom shall be the chairman or a member of the Pacific Fishery Management Council. Not more than 2 Commissioners may be appointed who reside in a State other than a State whose vessels maintain a substantial fishery in the area of the Convention.

''(b) ALTERNATE COMMISSIONERS.—The Secretary of State, in consultation with the Secretary, may designate from time to time and for periods of time deemed appropriate Alternate United States Commissioners to the Commission. Any Alternate United States Commissioner may exercise, at any meeting of the Commission or of the General Advisory Committee or Scientific Advisory Subcommittee established pursuant to section 4(b), all powers and duties of a United States Commissioner in the absence of any Commissioner appointed pursuant to subsection (a) of this section for whatever reason. The number of such Alternate United States Commissioners that may be designated for any such meeting shall be limited to the number of United States Commissioners appointed pursuant to subsection (a) of this section who will not be present at such meeting.

''(c) ADMINISTRATIVE MATTERS.—

''(1) EMPLOYMENT STATUS.—Individuals serving as such Commissioners, other than officers or employees of the United States Government, shall not be considered Federal employees except for the purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5, United States Code, and chapter 171 of title 28, United States Code.

''(2) COMPENSATION.—The United States Commissioners or Alternate Commissioners, although officers of the United States while so serving, shall receive no compensation for their services as such Commissioners or Alternate Commissioners.

''(3) TRAVEL EXPENSES.—

''(A) The Secretary of State shall pay the necessary travel expenses of United States Commissioners and Alternate United States Commissioners to meetings of the IATTC and other meetings the Secretary deems necessary to fulfill their duties, in accordance with the Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5, United States Code.

''(B) The Secretary may reimburse the Secretary of State for amounts expended by the Secretary of State under this subsection.''.

SEC. 11545. GENERAL ADVISORY COMMITTEE AND SCIENTIFIC ADVISORY SUBCOMMITTEE.

Section 4 (16 U.S.C. 953) is amended—

(1) by striking subsection (a) and inserting the following:

''(a) GENERAL ADVISORY COMMITTEE.—

''(1) APPOINTMENTS; PUBLIC PARTICIPATION; COMPENSATION.—

''(A) The Secretary, in consultation with the Secretary of State, shall appoint a General Advisory Committee which shall consist of not more than 25 individuals who shall be representative of the various groups concerned with the fisheries covered by the Convention, including nongovernmental conservation organizations, providing to the maximum extent practicable an equitable balance among such groups. Members of the General Advisory Committee will be eligible to participate as members of the U.S. delegation to the Commission and its working groups to the extent the Commission rules and space for delegations allow.

''(B) The chair of the Pacific Fishery Management Council's Advisory Subpanel for Highly Migratory Fisheries and the chair of the Western Pacific Fishery Management Council's Advisory Committee shall be members of the General Advisory Committee by virtue of their positions in those Councils.

''(C) Each member of the General Advisory Committee appointed under subparagraph (A) shall serve for a term of 3 years and is eligible for reappointment.

''(D) The General Advisory Committee shall be invited to attend all non-executive meetings of the United States Section and at such meetings shall be given opportunity to examine and to be heard on all proposed programs of investigation, reports, recommendations, and regulations of the Commission.

''(E) The General Advisory Committee shall determine its organization, and prescribe its practices and procedures for carrying out its functions under this chapter, the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), and the Convention. The General Advisory Committee shall publish and make available to the public a statement of its organization, practices and procedures. Meetings of the General Advisory Committee, except when in executive session, shall be open to the public, and prior notice of meetings shall be made public in timely fashion. The General Advisory Committee shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

''(2) INFORMATION SHARING.—The Secretary and the Secretary of State shall furnish the General Advisory Committee with relevant information concerning fisheries and international fishery agreements.

''(3) ADMINISTRATIVE MATTERS.—

''(A) The Secretary shall provide to the General Advisory Committee in a timely manner such administrative and technical support services as are necessary for its effective functioning.

''(B) Individuals appointed to serve as a member of the General Advisory Committee—

''(i) shall serve without pay, but while away from their homes or regular places of business to attend meetings of the General Advisory Committee shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code; and

''(ii) shall not be considered Federal employees except for the purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5, United States Code, and chapter 171 of title 28, United States Code.''; and

(2) by striking so much of subsection (b) as precedes paragraph (2) and inserting the following:

''(b) SCIENTIFIC ADVISORY COMMITTEE.—(1) The Secretary, in consultation with the Secretary of State, shall appoint a Scientific Advisory Subcommittee of not less than 5 nor more than 15 qualified scientists with

balanced representation from the public and private sectors, including nongovernmental conservation organizations.''.

SEC. 11546. RULEMAKING.

Section 6 (16 U.S.C. 955) is amended—

(1) by striking the section heading and inserting the following:

''SEC. 6. RULEMAKING.''; and

(2) by striking subsections (a) and (b) and inserting the following:

''(a) REGULATIONS.—The Secretary, in consultation with the Secretary of State and, with respect to enforcement measures, the Secretary of the Department in which the Coast Guard is operating, may promulgate such regulations as may be necessary to carry out the United States international obligations under the Convention and this Act, including recommendations and decisions adopted by the Commission. In cases where the Secretary has discretion in the implementation of 1 or more measures adopted by the Commission that would govern fisheries under the authority of a Regional Fishery Management Council, the Secretary may, to the extent practicable within the implementation schedule of the Convention and any recommendations and decisions adopted by the Commission, promulgate such regulations in accordance with the procedures established by the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

''(b) JURISDICTION.—The Secretary may promulgate regulations applicable to all vessels and persons subject to the jurisdiction of the United States, including United States flag vessels wherever they may be operating, on such date as the Secretary shall prescribe.''.

SEC. 11547. PROHIBITED ACTS.

Section 8 (16 U.S.C. 957) is amended to read as follows:

''SEC. 8. PROHIBITED ACTS.

''It is unlawful for any person—

''(1) to violate any provision of this chapter or any regulation or permit issued pursuant to this Act;

''(2) to use any fishing vessel to engage in fishing after the revocation, or during the period of suspension, of an applicable permit issued pursuant to this Act;

''(3) to refuse to permit any officer authorized to enforce the provisions of this Act (as provided for in section 10) to board a fishing vessel subject to such person's control for the purposes of conducting any search, investigation or inspection in connection with the enforcement of this Act or any regulation, permit, or the Convention;

''(4) to forcibly assault, resist, oppose, impede, intimidate, sexually harass, bribe, or interfere with any such authorized officer in the conduct of any search, investigations, or inspection in connection with the enforcement of this Act or any regulation, permit, or the Convention;

''(5) to resist a lawful arrest for any act prohibited by this Act;

''(6) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any fish taken or retained in violation of this Act or any regulation, permit, or agreement referred to in paragraph (1) or (2);

''(7) to interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has committed any act prohibited by this section;

''(8) to knowingly and willfully submit to the Secretary false information regarding any matter that the Secretary is considering in the course of carrying out this Act;

''(9) to forcibly assault, resist, oppose, impede, intimidate, sexually harass, bribe, or interfere with any observer on a vessel under this Act, or any data collector employed by the National Marine Fisheries Service or under contract to any person to carry out responsibilities under this Act;

''(10) to engage in fishing in violation of any regulation adopted pursuant to section 6(c) of this Act;

''(11) to ship, transport, purchase, sell, offer for sale, import, export, or have in custody, possession, or control any fish taken or retained in violation of such regulations;

''(12) to fail to make, keep, or furnish any catch returns, statistical records, or other reports as are required by regulations adopted pursuant to this Act to be made, kept, or furnished;

''(13) to fail to stop a vessel upon being hailed and instructed to stop by a duly authorized official of the United States; and

''(14) to import, in violation of any regulation adopted pursuant to section 6(c) of this Act, any fish in any form of those species subject to regulation pursuant to a recommendation, resolution, or decision of the Commission, or any tuna in any form not under regulation but under investigation by the Commission, during the period such fish have been denied entry in accordance with the provisions of section 6(c) of this Act, unless such person provides such proof as the Secretary of Commerce may require that a fish described in this paragraph offered for entry into the United States is not ineligible for such entry under the terms of section 6(c) of this Act.''.

SEC. 11548. ENFORCEMENT.

Section 10 (16 U.S.C. 959) is amended to read as follows:

''SEC. 10. ENFORCEMENT.

''This Act shall be enforced under section 11511 of the International Fisheries Stewardship and Enforcement Act.''.

SEC. 11549. REDUCTION OF BYCATCH.

Section 15 (16 U.S.C. 962) is amended by striking ''vessel'' and inserting ''vessels''.

SEC. 11550. REPEAL OF EASTERN PACIFIC TUNA LICENSING ACT OF 1984.

The Eastern Pacific Tuna Licensing Act of 1984 (16 U.S.C. 972 et seq.) is repealed.

TITLE CXVI—GULF OF THE FARALLONES AND CORDELL BANK NATIONAL MARINE SANCTUARIES BOUNDARY MODIFICATION AND PROTECTION

SEC. 11601. SHORT TITLE.

This title may be cited as the ''Gulf of the Farallones and Cordell Bank National Marine Sanctuaries Boundary Modification and Protection Act''.

SEC. 11602. FINDINGS.

Congress finds the following:

(1) The Gulf of the Farallones extends approximately 100 miles along the coast of Marin and Sonoma Counties of northern California. It includes approximately one-half of California's nesting seabirds, rich benthic marine life on hard-rock substrate, prolific fisheries, and substantial concentrations of resident and seasonally migratory marine mammals.

(2) Cordell Bank is adjacent to the Gulf of the Farallones and is a submerged island with spectacular, unique, and nationally significant marine environments.

(3) These marine environments have national and international significance, exceed the biological productivity of tropical rain forests, and support high levels of biological diversity.

(4) These biological communities are easily susceptible to damage from human activities, and must be properly conserved for themselves and to protect the economic viability of their contribution to national and regional economies.

(5) The Gulf of Farallones and the Cordell Bank include some of the United States richest fishing grounds and support important commercial and recreational fisheries. These fisheries are regulated by State and Federal fishery agencies and are supported and fostered through protection of the waters and habitats of Gulf of the Farallones National Marine Sanctuary and Cordell Bank National Marine Sanctuary.

(6) The report of the Commission on Ocean Policy established by section 3 of the Oceans Act of 2000 (Public Law 106–256; 33 U.S.C. 857–19) calls for comprehensive protection for the most productive ocean environments and recommends that they be managed as ecosystems.

(7) New scientific discoveries by the Office of National Marine Sanctuaries support comprehensive protection for these marine environments by broadening the geographic scope of the existing Gulf of the Farallones National Marine Sanctuary and the Cordell Bank National Marine Sanctuary.

(8) Cordell Bank is at the nexus of an ocean upwelling system, which produces the highest biomass concentrations on the west coast of the United States.

SEC. 11603. POLICY AND PURPOSE.

(a) POLICY.—It is the policy of the United States to protect and preserve living and other resources of the Gulf of the Farallones and Cordell Bank marine environments.

(b) PURPOSE.—The purposes of this title are the following:

(1) To extend the boundaries of the Gulf of the Farallones National Marine Sanctuary and the Cordell Bank National Marine Sanctuary as described in section 11605.

(2) To strengthen the protections that apply in the Sanctuaries.

(3) To provide for the education and interpretation for the public of the ecological value and national importance of the Sanctuaries.

(4) To manage human uses of the Sanctuaries under this title and the National Marine Sanctuaries Act (16 U.S.C. 1431 et seq.).

(c) EFFECT ON FISHING ACTIVITIES.—Nothing in this title is intended to alter any existing authorities regarding the conduct and location of fishing activities in the Sanctuaries.

SEC. 11604. DEFINITIONS.

In this title:

(1) CORDELL BANK NMS.—The term ''Cordell Bank NMS'' means the Cordell Bank National Marine Sanctuary.

(2) FARALLONES NMS.—The term ''Farallones NMS'' means the Gulf of the Farallones National Marine Sanctuary.

(3) SANCTUARIES.—The term ''Sanctuaries'' means the Farallones NMS and the Cordell Bank NMS.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Commerce.

SEC. 11605. NATIONAL MARINE SANCTUARY BOUNDARY ADJUSTMENTS.

(a) GULF OF THE FARALLONES.—

(1) BOUNDARY ADJUSTMENT.—The areas described in paragraph (2) are added to the Farallones NMS described in part 922.80 of title 15, Code of Federal Regulations, as in effect on the date of the enactment of this Act.

(2) AREAS INCLUDED.—

(A) IN GENERAL.—The areas referred to in paragraph (1) are the following:

(i) All submerged lands and waters, including living marine and other resources within and on those lands and waters, from the mean high water line to the boundary described in subparagraph (B).

(ii) The submerged lands and waters, including living marine and other resources within those waters, within the approximately two-square-nautical-mile portion of the Cordell Bank NMS (as in effect immediately before the enactment of this Act)

that is located south of the area that is added to Cordell Bank NMS by subsection (b)(2).

(B) BOUNDARY DESCRIBED.—The boundary referred to in subparagraph (A)(i) commences from the mean high water line (referred to in this subparagraph as the ''MHWL'') at 39.00000 degrees north in a westward direction approximately 29 nautical miles (referred to in this subparagraph as ''nm'') to 39.00000 north, 124.33333 west. The boundary then extends in a southeasterly direction to 38.30000 degrees north, 124.00000 degrees west, approximately 44 nm westward of Bodega Head. The boundary then extends eastward to the most northeastern corner of the expanded Cordell Bank NMS at 38.30000 north, 123.20000 degrees west, approximately 6 nm miles westward of Bodega Head. The boundary then extends in a southeasterly direction to 38.26390 degrees north, 123.18138 degrees west at the northwestern most point of the current Gulf of the Farallones Boundary. The boundary then follows the current northern Gulf of the Farallones NMS boundary in a northeasterly direction to the MHWL near Bodega Head. The boundary then follows the MHWL in a northeasterly and northwesterly direction to the commencement point at the intersection of the MHWL and 39.00000 north. Coordinates listed in this subparagraph are based on the North American Datum 1983 and the geographic projection.

(b) CORDELL BANK.—

(1) BOUNDARY ADJUSTMENT.—The area described in paragraph (2) is added to the existing Cordell Bank NMS described in part 922.80 of title 15, Code of Federal Regulations, as in effect on the date of the enactment of this Act.

(2) AREA INCLUDED.—

(A) IN GENERAL.—The area referred to in paragraph (1) consists of all submerged lands and waters, including living marine and other resources within those waters, within the boundary described in subparagraph (B).

(B) BOUNDARY.—The boundary referred to in subparagraph (A) commences at the most northeastern point of the Cordell Bank NMS boundary (as in effect immediately before the enactment of this Act) at 38.26390 degrees north, 123.18138 degrees west and extends northwestward to 38.30000 degrees north, 123.20000 degrees west, approximately 6 nautical miles (referred to in this subparagraph as ''nm'') west of Bodega Head. The boundary then extends westward to 38.30000 degrees north, 124.00000 degrees west, approximately 44 nautical miles west of Bodega Head. The boundary then turns southeastward and continues approximately 34 nautical miles to 37.76687 degrees north, 123.75142 degrees west, and then approximately 15 nm eastward to 37.76687 north, 123.42694 west at an intersection with the current Cordell Bank NMS boundary. The boundary then follows the current Cordell Bank NMS boundary, which is coterminous with the current Gulf of the Farallones boundary, in a northeasterly and then northwesterly direction to its commencement point at 38.26390 degrees north, 123.18138 degrees west. Coordinates listed in this subparagraph are based on NAD83 Datum and the geographic projection.

(c) INCLUSION IN THE SYSTEM.—The areas included in the Sanctuaries under subsections (a) and (b) shall be managed as part of the National Marine Sanctuary System, established by section 301(c) of the National Marine Sanctuaries Act (16 U.S.C. 1431(c)), in accordance with that Act.

(d) UPDATED NOAA CHARTS.—The Secretary shall—

(1) produce updated National Oceanic and Atmospheric Administration nautical charts for the areas in which the Sanctuaries are located, as modified by subsections (a) and (b); and

(2) include on those nautical charts the boundaries of the Sanctuaries, as so modified.

(e) BOUNDARY ADJUSTMENTS.—In producing revised nautical charts required by subsection (d) and in describing the boundaries in regulations issued by the Secretary, the Secretary may make technical modifications to the boundaries described in this section for clarity and ease of identification, as appropriate.

SEC. 11606. MANAGEMENT PLANS AND REGULATIONS.

(a) DRAFT PLANS.—Not later than 24 months after the date of the enactment of this Act, the Secretary shall complete a draft supplemental management plan for each of the Sanctuaries, as modified by subsections (a) and (b) of section 11605, that—

(1) focuses on management of the areas of the Sanctuaries described in such subsections (a) and (b); and

(2) does not weaken the resource protections in effect on the date of the enactment of this Act for the Sanctuaries.

(b) REVISED PLANS.—

(1) REQUIREMENT TO REVISE.—The Secretary shall issue a revised management plan for each of the Sanctuaries at the conclusion of the first management review for the Sanctuaries initiated after the date of the enactment of this Act under section 304(e) of the National Marine Sanctuaries Act (16 U.S.C. 1434(e)) and issue such final regulations as may be necessary to implement such plans.

(2) CONTENTS OF PLANS.—Revisions to the management plan for each of the Sanctuaries under this section shall, in addition to matters required under section 304(a)(2) of the National Marine Sanctuaries Act (16 U.S.C. 1434(a)(2))—

(A) facilitate all appropriate public and private uses of the national marine sanctuary to which each respective plan applies consistent with the primary objective of sanctuary resource protection;

(B) establish temporal and geographical zoning if necessary to ensure protection of the resources of each of the Sanctuaries;

(C) identify priority needs for research—

(i) to improve management of the Sanctuaries; or

(ii) to diminish threats to the health of the ecosystems in the Sanctuaries;

(D) establish a long-term ecological monitoring program and database, including the development and implementation of a resource information system to disseminate information on the ecosystem, history, culture, and management of the Sanctuaries;

(E) identify alternative sources of funding needed to fully implement the provisions of each such plan to supplement appropriations made to carry out the National Marine Sanctuaries Act (16 U.S.C. 1431 et seq.);

(F) ensure coordination and cooperation between the superintendents of each of the Sanctuaries and other Federal, State, and local authorities with jurisdiction over areas within or adjacent to one of the Sanctuaries to manage issues affecting the Sanctuaries, including surface water runoff, stream and river drainages, and navigation;

(G) in the case of revisions to such plan for the Farallones NMS, promote cooperation with farmers and ranchers operating in the watersheds adjacent to the Farallones NMS and establish voluntary best management practices programs;

(H) promote cooperative and educational programs with fishing vessel operators and crews operating in the waters of the Sanctuaries, and, whenever possible, include individuals who engage in fishing and their vessels in cooperative research, assessment, and monitoring programs and educational programs to promote sustainable fisheries, conservation of resources, and navigational safety; and

(I) promote education and public awareness, among users of the Sanctuaries, about the need for marine resource conservation and safe navigation and marine transportation.

(c) APPLICATION OF EXISTING REGULATIONS.—The regulations for Farallones NMS in subpart H of part 922 of title 15, Code of Federal Regulations (or any corresponding similar regulation) or of the Cordell Bank NMS in subpart K of such part 922 (or any corresponding similar regulation), including any regulations issued as a result of a joint management plan review for the Sanctuaries conducted pursuant to section 304(e) of the National Marine Sanctuaries Act (16 U.S.C. 1434(e)), shall apply to the areas added to each Sanctuary, respectively, under subsection (a) or (b) of section 5 until the Secretary modifies such regulations in accordance with subsection (d) of this section.

(d) REVISED REGULATIONS.—

(1) IN GENERAL.—Not later than 24 months after the date of the enactment of this Act, the Secretary shall—

(A) carry out an assessment of necessary revisions to the regulations for the Sanctuaries to ensure the protection of the resources of the Sanctuaries in a manner that is consistent with the purposes and policies of the National Marine Sanctuaries Act (16 U.S.C. 1431 et seq.) and the goals and objectives for the areas added to either of the Sanctuaries under subsection (a) or (b) of section 11605; and

(B) issue final regulations for the Sanctuaries that include any revisions identified in the assessment carried out under subparagraph (A).

(2) REGULATION OF SPECIFIC ACTIVITIES.—In carrying out the assessment required by paragraph (1)(A), the Secretary shall consider appropriate regulations for—

(A) the deposit or release of introduced species into the Sanctuaries; and

(B) the alteration of stream and river drainage into the Sanctuaries.

(3) CONSIDERATIONS.—In carrying out the assessment required by paragraph (1)(A), the Secretary shall consider exempting from further regulation under the National Marine Sanctuaries Act or this title discharges that are permitted under a National Pollution Discharge Elimination System permit that is in effect on the date of the enactment of this Act, or under a new or renewed National Pollution Discharge Elimination System permit if such permit—

(A) does not increase pollution in the Sanctuaries; and

(B) that originates—

(i) in the Russian River Watershed outside the boundaries of the Gulf of the Farallones National Marine Sanctuary; or

(ii) from the Bodega Marine Laboratory.

(e) PUBLIC PARTICIPATION.—The Secretary shall provide for the participation of the general public in the review and revision of the management plans for the Sanctuaries and relevant regulations under this section.

SEC. 11607. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary to carry out this title—

(1) $3,000,000 for each of fiscal years 2011 through 2015, for activities other than construction and acquisition activities; and

(2) $3,500,000 for fiscal year 2011 and such sums as may be necessary for each of fiscal years 2012 through 2015 for construction and acquisition activities.

TITLE CXVII—THUNDER BAY NATIONAL MARINE SANCTUARY

SEC. 11701. SHORT TITLE.

This title may be cited as the ''Thunder Bay National Marine Sanctuary and Underwater Preserve Boundary Modification Act''.

SEC. 11702. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) Thunder Bay National Marine Sanctuary and Underwater Preserve in Lake Huron contains more than 100 recorded historic vessel losses.

(2) The areas immediately surrounding the Sanctuary, including the offshore waters of Presque Isle and Alcona counties, Michigan, contain an equal number of historic vessel losses.

(3) Many of these shipwrecks and underwater cultural resources are popular recreational diving destinations and all contribute to our collective maritime heritage.

(4) These resources are susceptible to damage from human activities and must be properly preserved for their innate value and to protect the economic viability of their contribution to national and regional economies.

(b) PURPOSES.—The purposes of this title are—

(1) to expand the Thunder Bay National Marine Sanctuary and Underwater Preserve boundaries to encompass the offshore waters of Presque Isle and Alcona counties, Michigan, and outward to the international border between the United States and Canada; and

(2) to provide the underwater cultural resources of those areas equal protection to that currently afforded to the Sanctuary.

SEC. 11703. DEFINITIONS.

In this title:

(1) SANCTUARY.—The term ''Sanctuary'' means the Thunder Bay National Marine Sanctuary and Underwater Preserve.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Commerce.

SEC. 11704. SANCTUARY BOUNDARY ADJUSTMENT.

(a) BOUNDARY ADJUSTMENT.—Notwithstanding any other provision of law, including section 922.190 of title 15, Code of Federal Regulations, as in effect on the date of the enactment of this Act, the Sanctuary shall consist of the geographic area described in subsection (b).

(b) EXPANDED SANCTUARY BOUNDARY.—The area referred to in subsection (a) is all submerged lands, including the underwater cultural resources, lakeward of the mean high water line, within the boundaries of a line formed by connecting points in succession beginning at a point along the mean high water line located approximately at 45.6262N, 84.2043W at the intersection of the northern Presque Isle and northeastern Cheboygan County boundary, then north to a point approximately 45.7523N, 84.2011W, then northeast to a point approximately 45.7777N, 84.1231W, then due east to the international boundary between the United States and Canada approximately located at 45.7719N, 83.4840W then following the international boundary between the United States and Canada in a generally southeasterly direction to a point located approximately at 44.5128N, 82.3295W, then due west to a point along the mean high water line located approximately at 44.5116N, 83.3186W at the intersection of the southern Alcona County and northern Iosco County boundary, returning to the first point along the mean high water line.

(c) AUTHORITY TO MAKE MINOR ADJUSTMENTS.—The Secretary may make minor adjustments to the boundary described in subsection (b) to facilitate enforcement and clarify the boundary to the public if the resulting boundary is consistent with the purposes described in section 11702(b).

(d) INCLUSION IN THE NATIONAL MARINE SANCTUARY SYSTEM.—The area described in subsection (b), as modified in accordance with subsection (c), shall be managed as part of the National Marine Sanctuary System established by section 301(c) of the National Marine Sanctuaries Act (16 U.S.C. 1431(c)), in accordance with that Act.

(e) UPDATED NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION CHARTS.—The Secretary shall—

(1) produce updated National Oceanic and Atmospheric Administration charts for the area in which the Sanctuary is located; and

(2) include on such charts the boundaries of the Sanctuary described in subsection (b), as modified in accordance with subsection (c).

SEC. 11705. EXTENSION OF REGULATIONS AND MANAGEMENT.

(a) REGULATIONS.—The regulations applicable to the Sanctuary codified in subpart R of part 922 of title 15, Code of Federal Regulations, as in effect on the date of the enactment of this Act, shall apply to the geographic area added to the Sanctuary pursuant to section 11704, unless the Secretary specifies otherwise by regulation.

(b) EXISTING CERTIFICATIONS.—The Secretary may certify that any license, permit, approval, other authorization, or right to conduct a prohibited activity authorized pursuant to section 922.194 of title 15, Code of Federal Regulations, that exists on the date of the enactment of this Act shall apply to such an activity conducted within the geographic area added to the Sanctuary pursuant to section 11704.

(c) DATE OF SANCTUARY DESIGNATION.—For purposes of section 922.194 of title 15, Code of Federal Regulations, the date of Sanctuary designation shall be the date of the enactment of this Act.

(d) MANAGEMENT PLAN.—To the extent practicable, the Secretary shall apply the management plan in effect for the Sanctuary on the date of the enactment of this Act to the geographic area added to the Sanctuary pursuant to section 11704.

TITLE CXVIII—NORTHWEST STRAITS MARINE CONSERVATION INITIATIVE REAUTHORIZATION AND EXPANSION

SEC. 11801. SHORT TITLE.

This title may be cited as the ''Northwest Straits Marine Conservation Initiative Reauthorization Act of 2010''.

SEC. 11802. REAUTHORIZATION OF NORTHWEST STRAITS MARINE CONSERVATION INITIATIVE ACT.

The Northwest Straits Marine Conservation Initiative Act (title IV of Public Law 105–384; 112 Stat. 3458) is amended—

(1) by striking ''Commission (in this title referred to as the 'Commission').'' and inserting ''Commission.'';

(2) by striking sections 403 and 404;

(3) by redesignating section 405 as section 410; and

(4) by inserting after section 402 the following:

''SEC. 403. FINDINGS.

''Congress makes the following findings:

''(1) The marine waters and ecosystem of the Northwest Straits in Puget Sound in the State of Washington represent a unique resource of enormous environmental and economic value to the people of the United States.

''(2) During the 20th century, the environmental health of the Northwest Straits declined dramatically as indicated by impaired water quality, declines in marine wildlife, collapse of harvestable marine species, loss of critical marine habitats, ocean acidification, and sea level rise.

''(3) At the start of the 21st century, the Northwest Straits have been threatened by sea level rise, ocean acidification, and other effects of climate change.

''(4) In 1998, the Northwest Straits Marine Conservation Initiative Act (title IV of Public Law 105–384) was enacted to tap the unprecedented level of citizen stewardship demonstrated in the Northwest Straits and create a mechanism to mobilize public support and raise capacity for local efforts to protect and restore the ecosystem of the Northwest Straits.

''(5) The Northwest Straits Marine Conservation Initiative helps the National Oceanic and Atmospheric Administration and other Federal agencies with their marine missions by fostering local interest in marine issues and involving diverse groups of citizens.

''(6) The Northwest Straits Marine Conservation Initiative shares many of the same goals with the National Oceanic and Atmospheric Administration, including fostering citizen stewardship of marine resources, general ecosystem management, and protecting federally managed marine species.

''(7) Ocean literacy and identification and removal of marine debris projects are examples of on-going partnerships between the Northwest Straits Marine Conservation Initiative and the National Oceanic and Atmospheric Administration.

''SEC. 404. DEFINITIONS.

''In this title:

''(1) COMMISSION.—The term 'Commission' means the Northwest Straits Advisory Commission established by section 402.

''(2) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given that term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

''(3) NORTHWEST STRAITS.—The term 'Northwest Straits' means the marine waters of the Strait of Juan de Fuca and of Puget Sound from the Canadian border to the south end of Snohomish County.

''SEC. 405. MEMBERSHIP OF THE COMMISSION.

''(a) COMPOSITION.—The Commission shall be composed of up to 14 members who shall be appointed as follows:

''(1) One member appointed by a consensus of the members of a marine resources committee established under section 408 for each of the following counties of the State of Washington:

''(A) San Juan County.

''(B) Island County.

''(C) Skagit County.

''(D) Whatcom County.

''(E) Snohomish County.

''(F) Clallam County.

''(G) Jefferson County.

''(2) Two members appointed by the Secretary of the Interior in trust capacity and in consultation with the Northwest Indian Fisheries Commission or the Indian tribes affected by this title collectively, as the Secretary of the Interior considers appropriate, to represent the interests of such tribes.

''(3) One member appointed by the Governor of the State of Washington to represent the interests of the Puget Sound Partnership.

''(4) Four members appointed by the Governor of the State of Washington who—

''(A) are residents of the State of Washington; and

''(B) are not employed by a Federal, State, or local government.

''(b) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

''(c) CHAIRPERSON.—The Commission shall select a Chairperson from among its members.

''(d) MEETING.—The Commission shall meet at the call of the Chairperson, but not less frequently than quarterly.

''(e) LIAISON.—

''(1) IN GENERAL.—The Secretary of Commerce shall, acting through the Under Secretary for Oceans and Atmosphere and in consultation with the Director of the Commission appointed under section 407(a), appoint an employee of the National Oceanic and Atmospheric Administration—

''(A) to serve as a liaison between the Commission and the Department of Commerce; and

''(B) to attend meetings and other events of the Commission as a nonvoting participant.

''(2) LIMITATION.—Service as a member of the Commission by the employee appointed under paragraph (1)—

''(A) is limited to the employee's service as a liaison and attendance of meetings and other events as a nonvoting participant; and

''(B) does not obligate the employee to perform any duty of the Commission under section 406(b).

''SEC. 406. GOAL AND DUTIES OF THE COMMISSION.

''(a) GOAL.—The goal of the Commission is to protect and restore the marine waters, habitats, and species of the Northwest Straits region to achieve ecosystem health and sustainable resource use by—

''(1) designing and initiating projects that are driven by sound science, local priorities, community-based decisions, and the ability to measure results;

''(2) building awareness and stewardship and making recommendations to improve the health of the Northwest Straits marine resources;

''(3) maintaining and expanding diverse membership and partner organizations;

''(4) expanding partnerships with governments of Indian tribes and continuing to foster respect for tribal cultures and treaties; and

''(5) recognizing the importance of economic and social benefits that are dependent on marine environments and sustainable marine resources.

''(b) DUTIES.—The duties of the Commission are the following:

''(1) To provide resources and technical support for marine resources committees established under section 408.

''(2) To work with such marine resources committees and appropriate entities of Federal and State governments and Indian tribes to develop programs to monitor the overall health of the marine ecosystem of the Northwest Straits.

''(3) To identify factors adversely affecting or preventing the restoration of the health of the marine ecosystem and coastal economies of the Northwest Straits.

''(4) To develop scientifically sound restoration and protection recommendations, informed by local priorities, that address such factors.

''(5) To assist in facilitating the successful implementation of such recommendations by developing broad support among appropriate authorities, stakeholder groups, and local communities.

''(6) To develop and implement regional projects based on such recommendations to protect and restore the Northwest Straits ecosystem.

''(7) To serve as a public forum for the discussion of policies and actions of Federal, State, or local government, an Indian tribe, or the Government of Canada with respect to the marine ecosystem of the Northwest Straits.

''(8) To inform appropriate authorities and local communities about the marine ecosystem of the Northwest Straits and about issues relating to the marine ecosystem of the Northwest Straits.

''(9) To consult with all affected Indian tribes in the region of the Northwest Straits to ensure that the work of the Commission does not violate tribal treaty rights.

''(c) BENCHMARKS.—The Commission shall carry out its duties in a manner that promotes the achieving of the benchmarks described in subsection (f)(2).

''(d) COORDINATION AND COLLABORATION.—The Commission shall carry out the duties described in subsection (b) in coordination and collaboration, when appropriate, with Federal, State, and local governments and Indian tribes.

''(e) REGULATORY AUTHORITY.—The Commission shall have no power to issue regulations.

''(f) ANNUAL REPORT.—

''(1) IN GENERAL.—Each year, the Commission shall prepare, submit to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Energy and Commerce of the House of Representatives, and the Under Secretary for Oceans and Atmosphere, and make available to the public an annual report describing—

''(A) the activities carried out by the Commission during the preceding year; and

''(B) the progress of the Commission in achieving the benchmarks described in paragraph (2).

''(2) BENCHMARKS.—The benchmarks described in this paragraph are the following:

''(A) Protection and restoration of marine, coastal, and nearshore habitats.

''(B) Prevention of loss and achievement of a net gain of healthy habitat areas.

''(C) Protection and restoration of marine populations to healthy, sustainable levels.

''(D) Protection of the marine water quality of the Northwest Straits region and restoration of the health of marine waters.

''(E) Collection of high-quality data and promotion of the use and dissemination of such data.

''(F) Promotion of stewardship and understanding of Northwest Straits marine resources through education and outreach.

''SEC. 407. COMMISSION PERSONNEL AND ADMINISTRATIVE MATTERS.

''(a) DIRECTOR.—The Manager of the Shorelands and Environmental Assistance Program of the Department of Ecology of the State of Washington may, upon the recommendation of the Commission and the Director of the Padilla Bay National Estuarine Research Reserve, appoint and terminate a Director of the Commission. The employment of the Director shall be subject to confirmation by the Commission.

''(b) STAFF.—The Director may hire such other personnel as may be appropriate to enable the Commission to perform its duties. Such personnel shall be hired through the personnel system of the Department of Ecology of the State of Washington.

''(c) ADMINISTRATIVE SERVICES.—If the Governor of the State of Washington makes available to the Commission the administrative services of the State of Washington Department of Ecology and Padilla Bay National Estuarine Research Reserve, the Commission shall use such services for employment, procurement, grant and fiscal management, and support services necessary to carry out the duties of the Commission.

''SEC. 408. MARINE RESOURCES COMMITTEES.

''(a) IN GENERAL.—The government of each of the counties referred to in subparagraphs (A) through (G) of section 405(a)(1) may establish a marine resources committee that—

''(1) complies with the requirements of this section; and

''(2) receives from such government the mission, direction, expert assistance, and financial resources necessary—

''(A) to address issues affecting the marine ecosystems within its county; and

''(B) to work to achieve the benchmarks described in section 406(f)(2).

''(b) MEMBERSHIP.—

''(1) IN GENERAL.—Each marine resources committee established pursuant to this section shall be composed of—

''(A) members with relevant scientific expertise; and

''(B) members that represent balanced representation, including representation of—

''(i) local governments, including planning staff from counties and cities with marine shorelines;

''(ii) affected economic interests, such as ports and commercial fishers;

''(iii) affected recreational interests, such as sport fishers; and

''(iv) conservation and environmental interests.

''(2) TRIBAL MEMBERS.—With respect to a county referred to in subparagraphs (A) through (G) of section 405(a)(1), each Indian tribe with usual and accustomed fishing rights in the waters of such county and each Indian tribe with reservation lands in such county, may appoint one member to the marine resources committee for such county. Such member may be appointed by the respective tribal authority.

''(3) CHAIRPERSON.—

''(A) IN GENERAL.—Each marine resources committee established pursuant to this section shall select a chairperson from among members by a majority vote of the members of the committee.

''(B) ROTATING POSITION.—Each marine resources committee established pursuant to this section shall select a new chairperson at a frequency determined by the county charter of the marine resources committee to create a diversity of representation in the leadership of the marine resources committee.

''(c) DUTIES.—The duties of a marine resources committee established pursuant to this section are the following:

''(1) To assist in assessing marine resource problems in concert with governmental agencies, tribes, and other entities.

''(2) To assist in identifying local implications, needs, and strategies associated with the recovery of Puget Sound salmon and other species in the region of the Northwest Straits listed under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) in coordination with Federal, State, and local governments, Indian tribes, and other entities.

''(3) To work with other entities to enhance the scientific baseline and monitoring program for the marine environment of the Northwest Straits.

''(4) To identify local priorities for marine resource conservation and develop new projects to address those needs.

''(5) To work closely with county leadership to implement local marine conservation and restoration initiatives.

''(6) To coordinate with the Commission on marine ecosystem objectives.

''(7) To educate the public and key constituencies regarding the relationship between healthy marine habitats, harvestable resources, and human activities.

''SEC. 409. NORTHWEST STRAITS MARINE CONSERVATION FOUNDATION.

''(a) ESTABLISHMENT.—The Director of the Commission and the Director of the Padilla Bay National Estuarine Research Reserve may enter into an agreement with an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 to establish a nonprofit foundation to support the Commission and the marine resources committees established under section 408 in carrying out their duties under this title.

''(b) DESIGNATION.—The foundation authorized by subsection (a) shall be known as the

'Northwest Straits Marine Conservation Foundation'.

''(c) RECEIPT OF GRANTS.—The Northwest Straits Marine Conservation Foundation may, if eligible, apply for, accept, and use grants awarded by Federal agencies, States, local governments, regional agencies, interstate agencies, corporations, foundations, or other persons to assist the Commission and the marine resources committees in carrying out their duties under this title.

''(d) TRANSFER OF FUNDS.—The Northwest Straits Marine Conservation Foundation may transfer funds to the Commission or the marine resources committees to assist them in carrying out their duties under this title.

''SEC. 410. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to the Secretary of Commerce for the use of the Commission such sums as may be necessary to carry out the provisions of this title.''.

TITLE CXIX—HARMFUL ALGAL BLOOMS HYPOXIA RESEARCH AND CONTROL

SEC. 11901. SHORT TITLE.

This title may be cited as the ''Harmful Algal Blooms and Hypoxia Research and Control Amendments Act of 2010''.

SEC. 11902. AMENDMENT OF HARMFUL ALGAL BLOOM AND HYPOXIA RESEARCH AND CONTROL ACT OF 1998.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Harmful Algal Bloom and Hypoxia Research and Control Act of 1998 (16 U.S.C. 1451 note).

SEC. 11903. FINDINGS.

Section 602 is amended to read as follows:

''SEC. 602. FINDINGS.

''Congress finds the following:

''(1) Harmful algal blooms and hypoxia—

''(A) are increasing in frequency and intensity in the Nation's coastal waters and Great Lakes;

''(B) pose a threat to the health of coastal and Great Lakes ecosystems;

''(C) are costly to coastal economies; and

''(D) threaten the safety of seafood and human health.

''(2) Excessive nutrients in coastal waters have been linked to the increased intensity and frequency of hypoxia and some harmful algal blooms. There is a need to identify more workable and effective actions to reduce the negative impacts of harmful algal blooms and hypoxia on coastal waters.

''(3) The National Oceanic and Atmospheric Administration, through its ongoing research, monitoring, observing, education, grant, and coastal resource management programs and in collaboration with the other Federal agencies on the Interagency Task Force, along with States, Indian tribes, and local governments, possesses capabilities necessary to support a near and long-term comprehensive effort to prevent, reduce, and control the human and environmental costs of harmful algal blooms and hypoxia.

''(4) Harmful algal blooms and hypoxia can be triggered and exacerbated by increases in nutrient loading from point and nonpoint sources. Since much of these increases originate in upland areas and are delivered to marine and freshwater bodies via river discharge, integrated and landscape-level research and control strategies are required.

''(5) Harmful algal blooms and hypoxia affect many sectors of the coastal economy, including tourism, public health, and recreational and commercial fisheries. According to a recent report produced by the National Oceanic and Atmospheric Administration, the United States seafood and tourism industries suffer annual losses of $82,000,000 due to economic impacts of harmful algal blooms.

''(6) Global climate change and its effect on oceans and the Great Lakes may ultimately affect harmful algal bloom and hypoxic events.

''(7) Proliferations of harmful and nuisance algae can occur in all United States waters, including coastal areas and estuaries, the Great Lakes, and inland waterways, crossing political boundaries and necessitating regional coordination for research, monitoring, mitigation, response, and prevention efforts.

''(8) After the passage of the Harmful Algal Bloom and Hypoxia Research and Control Act of 1998, federally funded and other research has led to several technological advances, including remote sensing, molecular and optical tools, satellite imagery, and coastal and ocean observing systems, that—

''(A) provide data for forecast models;

''(B) improve the monitoring and prediction of these events; and

''(C) provide essential decisionmaking tools for managers and stakeholders.''.

SEC. 11904. PURPOSES.

The Act is amended by inserting after section 602, as amended by section 11903 of this title, the following:

''SEC. 602A. PURPOSES.

''The purposes of this title are—

''(1) to provide for the development and coordination of a comprehensive and integrated national program to address harmful algal blooms and hypoxia through baseline research, monitoring, prevention, mitigation, and control;

''(2) to provide for the assessment of environmental, socioeconomic, and human health impacts of harmful algal blooms and hypoxia on a regional and national scale, and to integrate this assessment into marine and freshwater resource decisions; and

''(3) to facilitate regional, State, tribal, and local efforts to develop and implement appropriate harmful algal bloom and hypoxia response plans, strategies, and tools including outreach programs and information dissemination mechanisms.''.

SEC. 11905. INTERAGENCY TASK FORCE ON HARMFUL ALGAL BLOOMS AND HYPOXIA.

Section 603(a) is amended—

(1) in each of paragraphs (1) through (11), by striking ''the'' the first instance such term appears and inserting ''The'';

(2) in each of paragraphs (1) through (10), by striking the semicolon and inserting a period;

(3) in paragraph (11), by striking ''Quality; and'' and inserting ''Quality.'';

(4) by redesignating paragraph (12) as paragraph (13);

(5) by inserting after paragraph (11) the following:

''(12) The Centers for Disease Control.''; and

(6) in paragraph (13), as redesignated, by striking ''such other'' and inserting ''Other''.

SEC. 11906. NATIONAL HARMFUL ALGAL BLOOM AND HYPOXIA PROGRAM.

The Act is amended by inserting after section 603 the following:

''SEC. 603A. NATIONAL HARMFUL ALGAL BLOOM AND HYPOXIA PROGRAM.

''(a) ESTABLISHMENT.—The Under Secretary, acting through the Task Force established under section 603(a), shall establish and maintain a national harmful algal bloom and hypoxia program in accordance with this section.

''(b) ACTION STRATEGY.—

''(1) IN GENERAL.—The Task Force shall develop a national harmful algal blooms and hypoxia action strategy that—

''(A) is consistent with the purposes of this title;

''(B) includes a statement of goals and objectives; and

''(C) includes an implementation plan.

''(2) PUBLICATION.—Once the action strategy is developed, the Task Force shall—

''(A) submit the action strategy to Congress; and

''(B) publish the action strategy in the Federal Register.

''(3) PERIODIC REVISION.—The Task Force shall periodically review and revise the action strategy as necessary.

''(c) TASK FORCE FUNCTIONS.—The Task Force shall—

''(1) coordinate interagency review of plans and policies of the Program;

''(2) assess interagency work and spending plans for implementing the activities of the Program;

''(3) review the Program's distribution of Federal grants and funding to address research priorities;

''(4) support the implementation of the actions and strategies identified in the Regional Research and Action Plans under subsection (e);

''(5) support the development of institutional mechanisms and financial instruments to further the goals of the program;

''(6) coordinate and integrate the research of all Federal programs, including ocean and Great Lakes science and management programs and centers, that address the chemical, biological, and physical components of marine and freshwater harmful algal blooms and hypoxia;

''(7) expedite the interagency review process by ensuring timely review and dispersal of required reports and assessments under this title;

''(8) promote the development of new technologies for predicting, monitoring, and mitigating harmful algal blooms and hypoxia conditions; and

''(9) establish such interagency working groups that the Task Force determines to be necessary.

''(d) LEAD FEDERAL AGENCY.—The National Oceanic and Atmospheric Administration shall have primary responsibility for administering the Program.

''(e) PROGRAM DUTIES.—In administering the Program, the Under Secretary shall—

''(1) develop and promote a national strategy to understand, detect, predict, control, mitigate, and respond to marine and freshwater harmful algal bloom and hypoxia events;

''(2) prepare work and spending plans for implementing the activities of the Program and developing and implementing the Regional Research and Action Plans;

''(3) administer merit-based, competitive grant funding—

''(A) to support the projects maintained and established by the Program; and

''(B) to address the research and management needs and priorities identified in the Regional Research and Action Plans;

''(4) coordinate and work cooperatively with regional, State, tribal, and local government agencies and programs that address marine and freshwater harmful algal blooms and hypoxia;

''(5) coordinate with the Secretary of State to support international efforts on marine and freshwater harmful algal bloom and hypoxia information sharing, research, mitigation, control, and response activities;

''(6) identify additional research, development, and demonstration needs and priorities relating to monitoring, prevention, control, mitigation, and response to marine and freshwater harmful algal blooms and hypoxia, including methods and technologies to

protect the ecosystems affected by marine and freshwater harmful algal blooms;

''(7) integrate, coordinate, and augment existing education programs to improve public understanding and awareness of the causes, impacts, and mitigation efforts for marine and freshwater harmful algal blooms and hypoxia;

''(8) facilitate and provide resources for training State and local coastal and water resource managers in the methods and technologies for monitoring, controlling, and mitigating marine and freshwater harmful algal blooms and hypoxia;

''(9) support regional efforts to control and mitigate outbreaks through—

''(A) communication of the contents of the Regional Research and Action Plans and maintenance of online data portals for other information about harmful algal blooms and hypoxia to State and local stakeholders within the region for which each plan is developed; and

''(B) overseeing the development, review, and periodic updating of Regional Research and Action Plans;

''(10) convene at least 1 meeting of the Task Force each year; and

''(11) perform such other tasks as may be delegated by the Task Force.

''(f) NOAA ACTIVITIES.—The Under Secretary shall—

''(1) maintain and enhance the following existing competitive programs at the National Oceanic and Atmospheric Administration relating to marine and freshwater algal blooms and hypoxia;

''(2) carry out marine and Great Lakes harmful algal bloom and hypoxia events response activities;

''(3) carry out, in coordination with the Environmental Protection Agency, other freshwater harmful algal bloom and hypoxia events response activities;

''(4) establish new programs and infrastructure as necessary to develop and enhance the critical observations, monitoring, modeling, data management, information dissemination, and operational forecasts required to meet the purposes of this title;

''(5) enhance communication and coordination among Federal agencies carrying out marine and freshwater harmful algal bloom and hypoxia activities; and

''(6) increase the availability to appropriate public and private entities of—

''(A) analytical facilities and technologies;

''(B) operational forecasts; and

''(C) reference and research materials.

''(g) COOPERATIVE EFFORTS.—The Under Secretary shall work cooperatively and avoid duplication of effort with other offices, centers, and programs within NOAA, other agencies represented on the Task Force, and States, tribes, and nongovernmental organizations concerned with marine and aquatic issues to coordinate harmful algal blooms and hypoxia and related activities and research.

''(h) FRESHWATER PROGRAM.—With respect to the freshwater aspects of the Program, other than aspects occurring in the Great Lakes, the Administrator, in consultation with the Under Secretary, through the Task Force, shall—

''(1) carry out the duties otherwise assigned to the Under Secretary under this section and section 603B, including the activities described in subsection (f);

''(2) research the ecology of freshwater harmful algal blooms;

''(3) monitor and respond to freshwater harmful algal blooms events in lakes other than the Great Lakes, rivers, and reservoirs;

''(4) mitigate and control freshwater harmful algal blooms; and

''(5) identify in the President's annual budget request to Congress how much funding is proposed to carry out the activities proposed in subsection (f).

''(i) INTEGRATED COASTAL AND OCEAN OBSERVATION SYSTEM.—The collection of monitoring and observation data under this title shall comply with all data standards and protocols developed pursuant to the Integrated Coastal and Ocean Observation System Act of 2009 (33 U.S.C. 3601 et seq.). Such data shall be made available through the system established under that Act.''.

SEC. 11907. REGIONAL RESEARCH AND ACTION PLANS.

The Act, as amended by section 11906, is further amended by inserting after section 603A the following:

''SEC. 603B. REGIONAL RESEARCH AND ACTION PLANS.

''(a) IN GENERAL.—In administering the Program, the Under Secretary shall—

''(1) identify appropriate regions and subregions to be addressed by each Regional Research and Action Plan; and

''(2) oversee the development and implementation of Regional Research and Action Plans.

''(b) PLAN DEVELOPMENT.—The Under Secretary shall develop and submit to the Task Force for approval a regional research and action plan for each region, which shall build upon any existing State or regional plans the Under Secretary determines to be appropriate and shall identify appropriate elements for the region, including—

''(1) baseline ecological, social, and economic research needed to understand the biological, physical, and chemical conditions that cause, exacerbate, and result from harmful algal blooms and hypoxia;

''(2) regional priorities for ecological and socio-economic research on issues related to, and impacts of, harmful algal blooms and hypoxia;

''(3) research, development, and demonstration activities needed to develop and advance technologies and techniques for minimizing the occurrence of harmful algal blooms and hypoxia and improving capabilities to predict, monitor, prevent, control, and mitigate harmful algal blooms and hypoxia;

''(4) State, tribal, and local government actions that may be implemented—

''(A) to support long-term monitoring efforts and emergency monitoring as needed;

''(B) to minimize the occurrence of harmful algal blooms and hypoxia;

''(C) to reduce the duration and intensity of harmful algal blooms and hypoxia in times of emergency;

''(D) to address human health dimensions of harmful algal blooms and hypoxia; and

''(E) to identify and protect vulnerable ecosystems that could be, or have been, affected by harmful algal blooms and hypoxia;

''(5) mechanisms by which data, information, and products are transferred between the Program and State, tribal, and local governments and research entities;

''(6) communication, outreach and information dissemination efforts that State, tribal, and local governments and stakeholder organizations can undertake to educate and inform the public concerning harmful algal blooms and hypoxia and alternative coastal resource-utilization opportunities that are available; and

''(7) the roles Federal agencies can play to help facilitate implementation of the plans.

''(c) CONSULTATION.—In developing plans under this section, the Under Secretary shall—

''(1) coordinate with State coastal management and planning officials;

''(2) coordinate with tribal resource management officials;

''(3) coordinate with water management and watershed officials from coastal States and noncoastal States with water sources that drain into water bodies affected by harmful algal blooms and hypoxia;

''(4) coordinate with the Administrator and such other Federal agencies as the Under Secretary determines to be appropriate; and

''(5) consult with—

''(A) public health officials;

''(B) emergency management officials;

''(C) science and technology development institutions;

''(D) economists;

''(E) industries and businesses affected by marine and freshwater harmful algal blooms and hypoxia;

''(F) scientists, with expertise concerning harmful algal blooms or hypoxia, from academic or research institutions; and

''(G) other stakeholders.

''(d) BUILDING ON AVAILABLE STUDIES AND INFORMATION.—In developing plans under this section, the Under Secretary shall—

''(1) utilize and build on existing research, assessments, and reports, including those carried out pursuant to existing law and other relevant sources; and

''(2) consider the impacts, research, and existing program activities of all United States coastlines and fresh and inland waters, including the Great Lakes, the Chesapeake Bay, and estuaries and tributaries.

''(e) SCHEDULE.—The Under Secretary shall—

''(1) begin development of plans in at least ⅓ of the regions not later than 9 months after the date of the enactment of the Harmful Algal Blooms and Hypoxia Research and Control Amendments Act of 2010;

''(2) begin development of plans in at least another ⅓ of the regions not later than 21 months after such date;

''(3) begin development of plans in the remaining regions not later than 33 months after such date; and

''(4) ensure that each Regional Research and Action Plan developed under this section is—

''(A) completed and approved by the Under Secretary not later than 12 months after the date on which the development of such plan begins; and

''(B) updated not less frequently than once every 5 years after the completion of such plan.

''(f) FUNDING.—

''(1) IN GENERAL.—Subject to available appropriations, the Under Secretary shall make funding available to eligible organizations to implement the research, monitoring, forecasting, modeling, and response actions included under each approved Regional Research and Action Plan. The Program shall select recipients through a merit-based, competitive process and seek to fund research proposals that most effectively align with the research priorities identified in the relevant Regional Research and Action Plan.

''(2) APPLICATION; ASSURANCES.—Any organization seeking funding under this subsection shall submit an application to the Program at such time, in such form and manner, and containing such information and assurances as the Program may require. The Program shall require any organization receiving funds under this subsection to utilize the mechanisms described in subsection (e)(5) to ensure the transfer of data and products developed under the Plan.

''(3) ELIGIBLE ORGANIZATION.—In this subsection, the term 'eligible organization' means—

''(A) an institution of higher education, other non-profit organization, State, tribal, or local government, commercial organization, or Federal agency that meets the requirements of this section and such other requirements as may be established by the Under Secretary; and

''(B) with respect to nongovernmental organizations, an organization that is subject to regulations promulgated or guidelines issued to carry out this section, including United States audit requirements that are applicable to nongovernmental organizations.''.

SEC. 11908. REPORTING.

Section 603 is amended by adding at the end the following:

''(j) REPORT.—Not later than 2 years after the submission of the action strategy under section 603A, the Under Secretary shall submit a report to the appropriate congressional committees that describes—

''(1) the proceedings of the annual Task Force meetings;

''(2) the activities carried out under the Program and the Regional Research and Action Plans, and the budget related to these activities;

''(3) the progress made on implementing the action strategy; and

''(4) the need to revise or terminate activities or projects under the Program.

''(k) PROGRAM REPORT.—Not later than 5 years after the date of enactment of the Harmful Algal Blooms and Hypoxia Research and Control Amendments Act of 2010, the Task Force shall submit a report on harmful algal blooms and hypoxia in marine and freshwater systems to Congress that—

''(1) evaluates the state of scientific knowledge of harmful algal blooms and hypoxia in marine and freshwater systems, including their causes and ecological consequences;

''(2) evaluates the social and economic impacts of harmful algal blooms and hypoxia, including their impacts on coastal communities, and review those communities' efforts and associated economic costs related to event forecasting, planning, mitigation, response, and public outreach and education;

''(3) examines and evaluates the human health impacts of harmful algal blooms and hypoxia, including any gaps in existing research;

''(4) describes advances in capabilities for monitoring, forecasting, modeling, control, mitigation, and prevention of harmful algal blooms and hypoxia, including techniques for, integrating landscape- and watershed-level water quality information into marine and freshwater harmful algal bloom and hypoxia prevention and mitigation strategies at Federal and regional levels;

''(5) evaluates progress made by, and the needs of, Federal, regional, State, tribal, and local policies and strategies for forecasting, planning, mitigating, preventing, and responding to harmful algal blooms and hypoxia, including the economic costs and benefits of such policies and strategies;

''(6) includes recommendations for integrating, improving, and funding future Federal, regional, State, tribal, and local policies and strategies for preventing and mitigating the occurrence and impacts of harmful algal blooms and hypoxia;

''(7) describes communication, outreach, and education efforts to raise public awareness of harmful algal blooms and hypoxia, their impacts, and the methods for mitigation and prevention; and

''(8) describes extramural research activities carried out under section 605(b).''.

SEC. 11909. NORTHERN GULF OF MEXICO HYPOXIA.

Section 604 is amended to read as follows:

''SEC. 604. NORTHERN GULF OF MEXICO HYPOXIA.

''(a) TASK FORCE INITIAL PROGRESS REPORTS.—Beginning not later than 12 months after the date of the enactment of the Harmful Algal Blooms and Hypoxia Research and Control Amendments Act of 2010, the Mississippi River/Gulf of Mexico Watershed Nutrient Task Force shall submit an annual report to the appropriate congressional committees and the President that describes the progress made by Task Force-directed activities carried out or funded by the Environmental Protection Agency Gulf of Mexico Program Office toward attainment of the goals of the Gulf Hypoxia Action Plan 2008.

''(b) TASK FORCE 2-YEAR PROGRESS REPORTS.—Beginning 2 years after the date on which the Administrator submits the report required under subsection (a), and every 2 years thereafter, the Administrator, through the Task Force, shall submit a report to the appropriate congressional committees and the President that describes the progress made by Task Force-directed activities and activities carried out or funded by the Environmental Protection Agency Gulf of Mexico Program Office toward attainment of the goals of the Gulf Hypoxia Action Plan 2008.

''(c) CONTENTS.—Each report required under this section shall—

''(1) assess the progress made toward nutrient load reductions, the response of the hypoxic zone and water quality throughout the Mississippi/Atchafalaya River Basin, and the economic and social effects;

''(2) evaluate lessons learned; and

''(3) recommend appropriate actions to continue to implement or, if necessary, revise the strategy set forth in the Gulf Hypoxia Action Plan 2008.''.

SEC. 11910. AUTHORIZATION OF APPROPRIATIONS.

Section 605 is amended to read as follows:

''SEC. 605. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—There are authorized to be appropriated, for each of the fiscal years 2011 through 2015—

''(1) to the Under Secretary to carry out sections 603A and 603B, $34,000,000, of which—

''(A) $2,000,000 may be used for the development of Regional Research and Action Plans and the reports required under section 603B;

''(B) $3,000,000 may be used for the research and assessment activities related to marine and freshwater harmful algal blooms at NOAA research laboratories;

''(C) $8,000,000 may be used to carry out the Ecology and Oceanography of Harmful Algal Blooms Program (ECOHAB);

''(D) $5,500,000 may be used to carry out the Monitoring and Event Response for Harmful Algal Blooms Program (MERHAB);

''(E) $1,500,000 may be used to carry out the Northern Gulf of Mexico Ecosystems and Hypoxia Assessment Program (MERHAB);

''(F) $5,000,000 may be used to carry out the Coastal Hypoxia Research Program (CHRP);

''(G) $5,000,000 may be used to carry out the Prevention, Control, and Mitigation of Harmful Algal Blooms Program (PCM);

''(H) $1,000,000 may be used to carry out the Event Response Program; and

''(I) $3,000,000 may be used to carry out the Infrastructure Program; and

''(2) to the Administrator to carry out sections 603A(h) and 604, $7,000,000.

''(b) EXTRAMURAL RESEARCH ACTIVITIES.—The Under Secretary shall ensure that a substantial portion of funds appropriated pursuant to subsection (a) that are used for research purposes are allocated to extramural research activities.''.

SEC. 11911. DEFINITIONS.

(a) IN GENERAL.—The Act is amended by inserting after section 605 the following:

''SEC. 605A. DEFINITIONS.

''In this title:

''(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the NOAA.

''(2) HARMFUL ALGAL BLOOM.—The term 'harmful algal bloom' means marine and freshwater phytoplankton that proliferate to high concentrations, resulting in nuisance conditions or harmful impacts on marine and aquatic ecosystems, coastal communities, and human health through the production of toxic compounds or other biological, chemical, and physical impacts of the algae outbreak.

''(3) HYPOXIA.—The term 'hypoxia' means a condition where low dissolved oxygen in aquatic systems causes stress or death to resident organisms.

''(4) NOAA.—The term 'NOAA' means the National Oceanic and Atmospheric Administration.

''(5) PROGRAM.—The term 'Program' means the Integrated Harmful Algal Bloom and Hypoxia Program established under section 603A.

''(6) REGIONAL RESEARCH AND ACTION PLAN.—The term 'Regional Research and Action Plan' means a plan established under section 603B.

''(7) STATE.—The term 'State' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, any other territory or possession of the United States, and any Indian tribe.

''(8) TASK FORCE.—The term 'Task Force' means the Interagency Task Force established by section 603(a).

''(9) UNDER SECRETARY.—The term 'Under Secretary' means the Under Secretary of Commerce for Oceans and Atmosphere.''.

''(10) UNITED STATES COASTAL WATERS.—The term 'United States coastal waters' includes the Great Lakes.''.

(b) CONFORMING AMENDMENT.—Section 603(a) is amended by striking ''Hypoxia (hereinafter referred to as the 'Task force').'' and inserting ''Hypoxia.''.

SEC. 11912. APPLICATION WITH OTHER LAWS.

The Act is amended by inserting after section 606 the following:

''SEC. 607. EFFECT ON OTHER FEDERAL AUTHORITY.

''Nothing in this title supersedes or limits the authority of any agency to carry out its responsibilities and missions under other laws.''.

TITLE CXX—CHESAPEAKE BAY SCIENCE, EDUCATION AND ECOSYSTEM ENHANCEMENT

SEC. 12001. SHORT TITLE.

This title may be cited as the ''Chesapeake Bay Science, Education, and Ecosystem Enhancement Act of 2010''.

SEC. 12002. REAUTHORIZATION OF CHESAPEAKE BAY OFFICE OF NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.

Section 307 of the National Oceanic and Atmospheric Administration Authorization Act of 1992 (15 U.S.C. 1511d) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking ''(1) The Secretary'' and inserting the following:

''(1) IN GENERAL.—The Secretary''; and

(ii) by striking ''(in this section referred to as the 'Office')''; and

(B) by striking paragraphs (2) and (3) and inserting the following:

''(2) DIRECTOR.—

''(A) IN GENERAL.—The Office shall be headed by a Director, who shall be selected by the Secretary of Commerce from among individuals who have knowledge and experience in research or resource management efforts in the Chesapeake Bay.

''(B) DUTIES.—The Director shall be responsible for—

''(i) the administration and operation of the Office; and

''(ii) carrying out the provisions of this section.''; and

(2) in subsection (b)—

(A) by striking the matter preceding paragraph (1) and inserting the following:

''(b) PURPOSE.—The purpose of this section is to focus the relevant science, research, and resource management capabilities of the National Oceanic and Atmospheric Administration as they apply to the Chesapeake Bay, and to utilize the Office to—'';

(B) in paragraph (2), by striking ''Secretary of Commerce'' and inserting ''Administrator'';

(C) in paragraph (3)—

(i) by striking the matter preceding subparagraph (A) and inserting the following:

''(3) coordinate with the programs and activities of the National Oceanic and Atmospheric Administration in furtherance of its coastal and ocean resource stewardship mission, including—'';

(ii) in subparagraph (A)—

(I) in clauses (vi) and (vii), by striking ''and'' after each semicolon; and

(II) by inserting after clause (vii) the following:

''(viii) coastal hazards, resilient coastal communities, and climate change; and

''(ix) research, scientific assessment, and adaptation to climate change; and''; and

(iii) in subparagraph (B)—

(I) in clause (iii), by striking ''and'' after the semicolon;

(II) in clause (iv), by inserting ''and'' after the semicolon; and

(III) by adding at the end the following:

''(v) integrated ecosystem assessments;'';

(D) in paragraph (4), by inserting ''as appropriate to further the purposes of this section'' before the semicolon at the end;

(E) by striking paragraph (5);

(F) by redesignating paragraph (6) as paragraph (5);

(G) by striking paragraph (7); and

(H) by adding at the end the following:

''(6) perform such functions as may be necessary to support the programs referred to in paragraph (3).''; and

(3) by striking subsections (c), (d), and (e) and inserting the following:

''(c) PROGRAM ACTIVITIES.—

''(1) IN GENERAL.—The Director shall implement the program activities required under this subsection—

''(A) to support the activity of the Chesapeake Executive Council; and

''(B) to further the purposes of this section.

''(2) ENSURING SCIENTIFIC AND TECHNICAL MERIT.—The Director shall—

''(A) establish and utilize an effective and transparent mechanism to ensure that projects funded under this section have undergone appropriate peer review, using, to the extent practicable, the capabilities of the Maryland and Virginia Sea Grant Program;

''(B) provide other appropriate means to determine that such projects have acceptable scientific and technical merit for the purpose of achieving maximum utilization of available funds and resources to benefit the Chesapeake Bay area; and

''(C) ensure that all data and other products generated by any project funded under this section be provided to the Director.

''(3) CONSULTATION WITH CHESAPEAKE EXECUTIVE COUNCIL.—In implementing the program activities authorized under this section, the Director shall consult with the Chesapeake Executive Council to ensure that the activities of the Office are consistent with the purposes and priorities of the Chesapeake Bay Agreement and plans developed pursuant to the Agreement.

''(4) INTEGRATED COASTAL OBSERVATIONS AND MAPPING.—

''(A) IN GENERAL.—The Director shall collaborate with scientific and academic institutions, Federal and State agencies, nongovernmental organizations, and other constituents in the Chesapeake Bay watershed—

''(i) to incorporate Chesapeake Bay observations into the United States integrated Ocean Observation System; and

''(ii) to coordinate coastal mapping requirements and projects.

''(B) SPECIFIC REQUIREMENTS.—To support the actions described in subparagraph (A) and provide a complete set of environmental information for the Chesapeake Bay, the Director shall—

''(i) coordinate existing monitoring, observing, and mapping activities in the Chesapeake Bay;

''(ii) identify new data collection needs and deploy new technologies, as appropriate;

''(iii) facilitate the collection and analysis of the scientific information necessary for the management of living marine resources and the marine habitat associated with such resources;

''(iv) coordinate with regional partners to manage and interpret the information described in clause (iii); and

''(v) support regional partners to ensure the information described in clause (iii) is organized into products that are useful to policy makers, resource managers, scientists, and the public.

''(C) CHESAPEAKE BAY INTERPRETIVE BUOY SYSTEM.—To further the development and implementation of the Chesapeake Bay Interpretive Buoy System, the Director shall—

''(i) support the establishment and implementation of the Captain John Smith Chesapeake National Historic Trail;

''(ii) delineate key waypoints along the trail and provide appropriate real-time data and information for trail users;

''(iii) interpret data and information for use by educators and students to inspire stewardship of Chesapeake Bay; and

''(iv) incorporate the Chesapeake Bay Interpretive Buoy System into the Integrated Ocean Observing System regional network of observatories, in keeping with the purposes of the Integrated Coastal and Ocean Observation System Act of 2009 (33 U.S.C. 3601 et seq.).

''(5) CHESAPEAKE BAY WATERSHED EDUCATION AND TRAINING PROGRAM.—

''(A) IN GENERAL.—The Director shall establish a Chesapeake Bay watershed education and training program, which shall—

''(i) continue and expand the Chesapeake Bay watershed education programs offered by the Office on the day before the date of the enactment of the Chesapeake Bay Science, Education, and Ecosystem Enhancement Act of 2010;

''(ii) improve the understanding of elementary and secondary school students and teachers of the living resources of the ecosystem of the Chesapeake Bay;

''(iii) provide community education to improve watershed protection; and

''(iv) meet the educational goals of the most recent Chesapeake Bay Agreement.

''(B) GRANT PROGRAM.—The Director shall, subject to the availability of appropriations, award grants to support education and training projects that enhance understanding and assessment of a specific environmental problem in the Chesapeake Bay watershed or a goal of the Chesapeake Bay Program, or protect or restore living resources of the Chesapeake Bay watershed, including projects that—

''(i) provide classroom education, including the development and use of distance learning and other innovative technologies, related to the Chesapeake Bay watershed;

''(ii) provide watershed educational experiences in the Chesapeake Bay watershed;

''(iii) provide professional development for teachers related to the Chesapeake Bay watershed and the dissemination of pertinent education materials oriented to varying grade levels;

''(iv) demonstrate or disseminate environmental educational tools and materials related to the Chesapeake Bay watershed;

''(v) demonstrate field methods, practices, and techniques including assessment of environmental and ecological conditions and analysis of environmental problems;

''(vi) build the capacity of organizations to deliver high quality environmental education programs; and

''(vii) educate local land use officials and decision makers on the relationship of land use to natural resource and watershed protection.

''(C) COLLABORATION.—The Director shall provide technical assistance to support the education and training program established under subparagraph (A) in collaboration with the heads of other relevant Federal agencies.

''(6) COASTAL AND LIVING RESOURCES MANAGEMENT AND HABITAT PROGRAM.—

''(A) IN GENERAL.—The Director shall establish a Chesapeake Bay coastal living resources management and habitat program to support coordinated management, protection, characterization, and restoration of priority Chesapeake Bay habitats and living resources, including oysters, blue crabs, and submerged aquatic vegetation.

''(B) ACTIVITIES.—Under the program required by subparagraph (A), the Director may, subject to the availability of appropriations, carry out or enter into grants, contracts, and cooperative agreements and provide technical assistance to support—

''(i) native oyster restoration;

''(ii) fish and shellfish aquaculture;

''(iii) establishment of submerged aquatic vegetation propagation programs;

''(iv) the development of programs that protect and restore critical coastal habitats;

''(v) habitat mapping, characterization, and assessment techniques necessary to identify, assess, and monitor restoration actions;

''(vi) application and transfer of applied scientific research and ecosystem management tools to fisheries and habitat managers;

''(vii) collection, synthesis, and sharing of information to inform and influence coastal and living resource management issues; and

''(viii) such other activities as the Director considers appropriate to carry out the program established under subparagraph (A).

''(d) REPORTS.—

''(1) IN GENERAL.—Not less frequently than once every 2 years, the Director shall submit a report to Congress that describes—

''(A) the activities of the Office; and

''(B) the progress made in protecting and restoring the living resources and habitat of the Chesapeake Bay.

''(2) ACTION PLAN.—Each report submitted under paragraph (1) shall include an action plan for the 2-year period following submission of the report, consisting of—

''(A) a list of recommended research, monitoring, and data collection activities necessary to continue implementation of the strategy under subsection (b)(2); and

''(B) recommendations to integrate the activities of the National Oceanic and Atmospheric Administration with the activities of the partners in the Chesapeake Bay Program in order to meet the commitments of the Chesapeake Bay Agreement.

''(e) AGREEMENTS.—

''(1) IN GENERAL.—The Director may, subject to the availability of appropriations, enter into and perform such contracts, leases, grants, or cooperative agreements as may be necessary to carry out the provisions of this section.

''(2) USE OF OTHER RESOURCES.—For purposes of understanding, protecting, and restoring the Chesapeake Bay, the Director may use, with or without reimbursement, the land, services, equipment, personnel, and facilities of any Department, agency, or instrumentality of the United States, or of any State, local government, Indian tribal government, or of any political subdivision thereof if the Director receives consent from the Department, agency, instrumentality, State, government, or political subdivision concerned for such use.

''(3) DONATIONS.—The Director may accept donations of funds, other property, and services for use in understanding, protecting, and restoring the Chesapeake Bay. Donations accepted under this section shall be considered as a gift or bequest to or for the use of the United States.

''(f) DEFINITIONS.—In this section:

''(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the National Oceanic and Atmospheric Administration.

''(2) CHESAPEAKE BAY AGREEMENT.—The term 'Chesapeake Bay Agreement' means the formal, voluntary agreements executed to achieve the goal of restoring and protecting the Chesapeake Bay ecosystem and the living resources of the Chesapeake Bay ecosystem and are signed by the Chesapeake Executive Council.

''(3) CHESAPEAKE BAY PROGRAM.—The term 'Chesapeake Bay Program' means the regional Chesapeake Bay restoration partnership that includes Maryland, Pennsylvania, Virginia, the District of Columbia, the Chesapeake Bay Commission, the Environmental Protection Agency, other appropriate Federal agencies, and participating citizen and local elected official advisory groups.

''(4) CHESAPEAKE EXECUTIVE COUNCIL.—The term 'Chesapeake Executive Council' means the representatives from the Commonwealth of Virginia, the State of Maryland, the Commonwealth of Pennsylvania, the Environmental Protection Agency, the District of Columbia, and the Chesapeake Bay Commission, who are signatories to the Chesapeake Bay Agreement, and any future signatories to that agreement.

''(5) DIRECTOR.—The term 'Director' means the Director of the Chesapeake Bay Office.

''(6) OFFICE.—The term 'Office' means the Chesapeake Bay Office established under subsection (a).

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section—

''(1) $17,000,000 for fiscal year 2011;

''(2) $18,700,000 for fiscal year 2012;

''(3) $20,570,000 for fiscal year 2013; and

''(4) $22,627,000 for fiscal year 2014.''.

TITLE CXXI—CORAL REEF CONSERVATION AMENDMENTS

SEC. 12101. SHORT TITLE.

This title may be cited as the ''Coral Reef Conservation Amendments Act of 2010''.

SEC. 12102. AMENDMENT OF CORAL REEF CONSERVATION ACT OF 2000.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of the Coral Reef Conservation Act of 2000 (16 U.S.C. 6401 et seq.).

SEC. 12103. PURPOSES.

Section 202 (16 U.S.C. 6401) is amended to read as follows:

''SEC. 202. PURPOSES.

''The purposes of this title are—

''(1) to preserve, sustain, and restore the condition of coral reef ecosystems;

''(2) to promote the wise management and sustainable use of coral reef ecosystems to benefit local communities, the Nation, and the world;

''(3) to develop sound scientific information on the condition of coral reef ecosystems and the threats to such ecosystems;

''(4) to assist in the preservation of coral reef ecosystems by supporting conservation programs, including projects that involve affected local communities and nongovernmental organizations;

''(5) to provide financial resources for those programs and projects;

''(6) to establish a formal mechanism for collecting and allocating monetary donations from the private sector to be used for coral reef conservation projects; and

''(7) to provide mechanisms to prevent and minimize damage to coral reefs.''.

SEC. 12104. NATIONAL CORAL REEF ACTION STRATEGY.

Section 203 (16 U.S.C. 6402) is amended to read as follows:

''SEC. 203. NATIONAL CORAL REEF ACTION STRATEGY.

''(a) IN GENERAL.—Not later than 180 days after the date of the enactment of the Coral Reef Conservation Amendments Act of 2010, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Natural Resources of the House of Representatives and publish in the Federal Register a national coral reef ecosystem action strategy, consistent with the purposes of this title. The Secretary shall periodically review and revise the strategy as necessary. In developing this national strategy, the Secretary may consult the Coral Reef Task Force established under Executive Order 13089 (June 11, 1998).

''(b) GOALS AND OBJECTIVES.—The action strategy shall include a statement of goals and objectives and an implementation plan, including a description of the funds obligated each fiscal year to advance coral reef conservation. The action strategy and implementation plan shall include discussion of—

''(1) coastal uses and management, including land-based sources of pollution;

''(2) climate change;

''(3) water and air quality;

''(4) mapping and information management;

''(5) research, monitoring, and assessment;

''(6) international and regional issues;

''(7) outreach and education;

''(8) local strategies developed by the States or Federal agencies, including regional fishery management councils; and

''(9) conservation.''.

SEC. 12105. CORAL REEF CONSERVATION PROGRAM.

(a) IN GENERAL.—Section 204 (16 U.S.C. 6403) is amended—

(1) in subsection (a), by striking ''Secretary, through the Administrator and'' and inserting ''Secretary,'';

(2) by amending subsection (c) to read as follows:

''(c) ELIGIBILITY.—Any natural resource management authority of a State or other government authority with jurisdiction over coral reef ecosystems, or whose activities directly or indirectly affect coral reef ecosystems, or educational or nongovernmental institutions with demonstrated expertise in the conservation of coral reef ecosystems, may submit a coral conservation proposal to the Secretary under subsection (e).'';

(3) in subsection (d)—

(A) by amending the subsection heading to read as follows:

''(d) PROJECT DIVERSITY.—''; and

(B) by amending paragraph (3) to read as follows:

''(3) Remaining funds shall be awarded for—

''(A) projects (with priority given to community-based local action strategies) that address emerging priorities or threats, including international and territorial priorities, or threats identified by the Secretary; and

''(B) other appropriate projects, as determined by the Secretary, including monitoring and assessment, research, pollution reduction, education, and technical support.'';

(4) by amending subsection (g) to read as follows:

''(g) CRITERIA FOR APPROVAL.—The Secretary may not approve a project proposal under this section unless the project is consistent with the coral reef action strategy under section 203 and will enhance the conservation of coral reef ecosystems nationally or internationally by—

''(1) implementing coral conservation programs which promote sustainable development and ensure effective, long-term conservation of coral reef ecosystems and biodiversity;

''(2) addressing the conflicts arising from the use of environments near coral reef ecosystems or from the use of corals, species associated with coral reef ecosystems, and coral products;

''(3) enhancing compliance with laws that prohibit or regulate the taking of coral products or species associated with coral reef ecosystems or regulate the use and management of coral reef ecosystems;

''(4) developing sound scientific information on the condition of coral reef ecosystems or the threats to such ecosystems and their biodiversity, including factors that cause coral disease, ocean acidification, and bleaching;

''(5) promoting and assisting the implementation of cooperative coral reef ecosystem conservation projects that involve affected local communities, nongovernmental organizations, or others in the private sector;

''(6) increasing public knowledge and awareness of coral reef ecosystems and issues regarding their long-term conservation, including how they function to protect coastal communities;

''(7) mapping the location, distribution, and biodiversity of coral reef ecosystems;

''(8) developing and implementing techniques to monitor and assess the status and condition of coral reef ecosystems and biodiversity;

''(9) developing and implementing cost-effective methods to restore degraded coral reef ecosystems and biodiversity;

''(10) responding to, or taking action to help mitigate the effects of, coral disease, ocean acidification, and bleaching events;

''(11) promoting activities designed to prevent or minimize damage to coral reef ecosystems, including the promotion of ecologically sound navigation and anchorages; or

''(12) promoting and assisting entities to work with local communities, and all appropriate governmental and nongovernmental organizations, to support community-based planning and management initiatives for the protection of coral reef systems.''; and

(5) in subsection (j), by striking ''coral reefs'' and inserting ''coral reef ecosystems''.

(b) CONFORMING AMENDMENTS.—Subsections (b), (d), (e), (f), (h), (i), and (j) of section 204 (16 U.S.C. 6403) are each amended by striking ''Administrator'' each place it appears and inserting ''Secretary''.

SEC. 12106. CORAL REEF CONSERVATION FUND.

Section 205 (16 U.S.C. 6404) is amended—

(1) by amending subsection (a) to read as follows:

''(a) FUND.—The Secretary may enter into agreements with nonprofit organizations promoting coral reef ecosystem conservation by authorizing such organizations to receive, hold, and administer amounts received pursuant to this section. Such organizations shall invest, reinvest, and otherwise administer and maintain such amounts and any interest or revenues earned in a separate interest-bearing account established by such organizations solely to support partnerships between the public and private sectors that further the purposes of this title and are consistent with the national coral reef action strategy under section 203.'';

(2) by striking ''Administrator'' each place such term appears and inserting ''Secretary''; and

(3) in subsection (c), by striking ''the grant program'' and inserting ''any grant program''.

SEC. 12107. AGREEMENTS; REDESIGNATIONS.

The Act (16 U.S.C. 6401 et seq.) is amended—

(1) by redesignating section 206 (16 U.S.C. 6405) as section 207;

(2) by redesignating section 207 (16 U.S.C. 6406) as section 208;

(3) by redesignating section 208 (16 U.S.C. 6407) as section 218;

(4) by redesignating section 209 (16 U.S.C. 6408) as section 219;

(5) by redesignating section 210 (16 U.S.C. 6409) as section 221; and

(6) by inserting after section 205 (16 U.S.C. 6404) the following:

''SEC. 206. AGREEMENTS.

''(a) IN GENERAL.—The Secretary may execute and perform such contracts, leases, grants, cooperative agreements, or other transactions as may be necessary to carry out the purposes of this title.

''(b) COOPERATIVE AGREEMENTS.—In addition to the general authority provided under subsection (a), the Secretary may enter into, extend, or renegotiate agreements with universities and research centers with national or regional coral reef research institutes to conduct ecological research and monitoring explicitly aimed at building capacity for more effective resource management. Pursuant to any such agreements these institutes shall—

''(1) collaborate directly with governmental resource management agencies, nonprofit organizations, and other research organizations;

''(2) build capacity within resource management agencies to establish research priorities, plan interdisciplinary research projects and make effective use of research results; and

''(3) conduct public education and awareness programs for policy makers, resource managers, and the general public on coral reef ecosystems, best practices for coral reef and ecosystem management and conservation, their value, and threats to their sustainability.

''(c) USE OF OTHER AGENCIES' RESOURCES.—For purposes related to the conservation, preservation, protection, restoration, or replacement of coral reefs or coral reef ecosystems and the enforcement of this title, the Secretary may use, with their consent and with or without reimbursement, the land, services, equipment, personnel, and facilities of any Department, agency, or instrumentality of the United States, or of any State, local government, tribal government, Territory, or possession, or of any political subdivision thereof, or of any foreign government or international organization.

''(d) AUTHORITY TO UTILIZE GRANT FUNDS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary may apply for, accept, and obligate research grant funding from any Federal source operating competitive grant programs if such funding furthers the purpose of this title.

''(2) EXCEPTION.—The Secretary may not apply for, accept, or obligate any grant funding under paragraph (1) for which the granting agency lacks authority to grant funds to Federal agencies, or for any purpose or subject to conditions that are prohibited by law or regulation.

''(3) USE OF FUNDS.—Appropriated funds may be used to satisfy a requirement to match grant funds with recipient agency funds, except that no grant may be accepted that requires a commitment in advance of appropriations.

''(4) DEPOSIT OF FUNDS.—Funds received from grants shall be deposited in the National Oceanic and Atmospheric Administration account for the purpose for which the grant was awarded.

''(e) TRANSFER OF FUNDS.—Under an agreement entered into pursuant to subsection (a), and subject to the availability of funds, the Secretary may transfer funds to, and may accept transfers of funds from, Federal agencies, instrumentalities and laboratories, State and local governments, Indian tribes (as defined in section 4 of the Indian Self-Determination and Educational Assistance Act (25 U.S.C. 450(b)), organizations and associations representing Native Americans, native Hawaiians, and Native Pacific Islanders, educational institutions, nonprofit organizations, commercial organizations, and other public and private persons or entities, except that no more than 5 percent of funds appropriated to carry out this section may be transferred. The 5 percent limitation shall not apply to section 204 or 210.''.

SEC. 12108. EMERGENCY ASSISTANCE.

Section 207, as redesignated by section 12107(1) of this title, is amended to read as follows:

''SEC. 207. EMERGENCY ASSISTANCE.

''The Secretary, in cooperation with the Federal Emergency Management Agency, as appropriate, may provide assistance to any State, local, or territorial government agency with jurisdiction over coral reef ecosystems to address any unforeseen or disaster-related circumstance pertaining to coral reef ecosystems.''.

SEC. 12109. NATIONAL PROGRAM.

Section 208, as redesignated by section 12107(2) of this title, is amended to read as follows:

''SEC. 208. NATIONAL PROGRAM.

''(a) IN GENERAL.—Subject to the availability of appropriations, the Secretary may conduct activities, including activities with local, State, regional, or international programs and partners, as appropriate, to conserve coral reef ecosystems, that are consistent with this title, the National Marine Sanctuaries Act (16 U.S.C. 1431 et seq.), the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.), the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.).

''(b) AUTHORIZED ACTIVITIES.—Activities authorized under subsection (a) include—

''(1) mapping, monitoring, assessment, restoration, socioeconomic and scientific research that benefit the understanding, sustainable use, biodiversity, and long-term conservation of coral reef ecosystems;

''(2) enhancing public awareness, education, understanding, and appreciation of coral reef ecosystems;

''(3) removing, and providing assistance to States in removing, abandoned fishing gear, marine debris, and abandoned vessels from coral reef ecosystems to conserve living marine resources;

''(4) responding to incidents and events that threaten and damage coral reef ecosystems;

''(5) conservation and management of coral reef ecosystems;

''(6) centrally archiving, managing, and distributing data sets and providing coral reef ecosystem assessments and services to the general public with local, regional, or international programs and partners; and

''(7) activities designed to prevent or minimize damage to coral reef ecosystems, including those activities described in section 212.

''(c) DATA ARCHIVE, ACCESS, AND AVAILABILITY.—The Secretary, in coordination with similar efforts at other Departments and agencies shall provide for the long-term stewardship of environmental data, products, and information via data processing, storage, and archive facilities pursuant to this title. The Secretary may—

''(1) archive environmental data collected by Federal, State, local agencies, and tribal organizations and federally funded research;

''(2) promote widespread availability and dissemination of environmental data and information through full and open access and exchange to the greatest extent possible, including in electronic format on the Internet;

''(3) develop standards, protocols, and procedures for sharing Federal data with State and local government programs and the private sector or academia; and

''(4) develop metadata standards for coral reef ecosystems in accordance with Federal Geographic Data Committee guidelines.

''(d) EMERGENCY RESPONSE, STABILIZATION, AND RESTORATION.—

''(1) ESTABLISHMENT OF ACCOUNT.—The Secretary shall establish an account, to be known as the Emergency Response, Stabilization, and Restoration Account (referred to in this subsection as the 'Account'), in the Damage Assessment Restoration Revolving Fund established by the Department of Commerce Appropriations Act, 1991 (33 U.S.C. 2706 note), for implementation of this subsection for emergency actions. Amounts appropriated for the Account under section 219, and funds authorized by sections 213(d)(1)(C)(ii) and 214(f)(3)(B), shall be deposited into the Account and made available for use by the Secretary as specified in sections 213 and 214.

''(2) DEPOSIT AND INVESTMENT OF CERTAIN FUNDS.—Any amounts received by the United States pursuant to sections 213(d)(1)(C)(ii) and 212(f)(3)(B) shall be deposited into the Account. The Secretary of Commerce may request the Secretary of the Treasury to invest such portion of the Damage Assessment Restoration Revolving Fund that the Secretary of Commerce determines is not required to meet the current needs of the Fund. Such investments shall be made by the Secretary of the Treasury in public debt securities, with maturities suitable to the needs of the Fund, as determined by the Secretary of Commerce and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity. Interest earned by such investments shall be available for use by the Secretary without further appropriation and remain available until expended.''.

SEC. 12110. STUDY OF TRADE IN CORALS.

(a) IN GENERAL.—The Secretary of Commerce, in consultation with the Secretary of the Interior, shall conduct a study on the economic, social, and environmental values and impacts of the United States market in corals and coral products.

(b) CONTENTS.—The study shall—

(1) assess the economic and other values of the United States market in coral and coral products, including import and export trade;

(2) identify primary coral species used in the coral and coral product trade and locations of wild harvest;

(3) assess the environmental impacts associated with wild harvest of coral;

(4) assess the effectiveness of current public and private programs aimed at promoting conservation in the coral and coral product trade;

(5) identify economic and other incentives for coral reef conservation as part of the coral and coral product trade; and

(6) identify additional actions, if necessary, to ensure that the United States market in coral and coral products does not contribute to the degradation of coral reef ecosystems.

(c) REPORT.—Not later than 30 months after the date of the enactment of this Act, the Secretary shall submit a report of the study conducted under this section to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Natural Resources of the House of Representatives.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $100,000 to the Secretary to carry out this section.

SEC. 12111. INTERNATIONAL CORAL REEF CONSERVATION ACTIVITIES.

The Act is amended by inserting after section 208, as redesignated by section 12107(2) of this title, the following:

"SEC. 209. INTERNATIONAL CORAL REEF CONSERVATION ACTIVITIES.

''(a) INTERNATIONAL CORAL REEF CONSERVATION ACTIVITIES.—

''(1) IN GENERAL.—The Secretary shall carry out international coral reef conservation activities consistent with the purposes of this title with respect to coral reef ecosystems in waters outside the jurisdiction of the United States. The Secretary shall develop and implement an international coral reef ecosystem strategy pursuant to subsection (b).

''(2) COORDINATION.—In carrying out this subsection, the Secretary—

''(A) shall consult with the Secretary of State, the Administrator of the Agency for International Development, the Secretary of the Interior, and other relevant Federal agencies, and relevant United States stakeholders;

''(B) shall take into account coral reef ecosystem conservation initiatives of other nations, international agreements, and intergovernmental and nongovernmental organizations so as to provide effective cooperation and efficiencies in international coral reef conservation; and

''(C) may consult with the Coral Reef Task Force.

''(b) INTERNATIONAL CORAL REEF ECOSYSTEM STRATEGY.—

''(1) IN GENERAL.—Not later than 1 year after the date of the enactment of the Coral Reef Conservation Amendments Act of 2010, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Foreign Affairs of the House of Representatives, and publish in the Federal Register, an international coral reef ecosystem strategy, consistent with the purposes of this title and the national strategy required under section 203(a). The Secretary shall periodically review and revise this strategy as necessary.

''(2) CONTENTS.—The strategy developed by the Secretary under paragraph (1) shall—

''(A) identify coral reef ecosystems throughout the world that are of high value for United States marine resources, that support high-seas resources of importance to the United States such as fisheries, or that support other interests of the United States;

''(B) summarize existing activities by Federal agencies and entities described in subsection (a)(2) to address the conservation of coral reef ecosystems identified pursuant to subparagraph (A);

''(C) establish goals, objectives, and specific targets for conservation of priority international coral reef ecosystems;

''(D) describe appropriate activities to achieve the goals and targets for international coral reef conservation, in particular those that leverage activities already conducted under this title;

''(E) develop a plan to coordinate implementation of the strategy with entities described in subsection (a)(2) in order to leverage current activities under this title and other conservation efforts globally;

''(F) identify appropriate partnerships, grants, or other funding and technical assistance mechanisms to carry out the strategy; and

''(G) develop criteria for prioritizing partnerships under subsection (c).

''(c) INTERNATIONAL CORAL REEF ECOSYSTEM PARTNERSHIPS.—

''(1) IN GENERAL.—The Secretary shall establish an international coral reef ecosystem partnership program to provide support, including funding and technical assistance, for activities that implement the strategy developed pursuant to subsection (b).

''(2) MECHANISMS.—The Secretary shall provide the support described in paragraph (1) through existing authorities, working in collaboration with the entities described in subsection (a)(2).

''(3) AGREEMENTS.—The Secretary may execute and perform such contracts, leases, grants, cooperative agreements, or other transactions as may be necessary to carry out the purposes of this section.

''(4) TRANSFER OF FUNDS.—To implement this section and subject to the availability of funds, the Secretary may—

''(A) transfer funds to a foreign government or international organization; and

''(B) accept transfers of funds from entities described in subparagraph (A), except that not more than 5 percent of the funds appropriated to carry out this section may be transferred.

''(5) CRITERIA FOR APPROVAL.—The Secretary may not approve a partnership proposal under this section unless the partnership—

''(A) is consistent with the international coral reef conservation strategy developed pursuant to subsection (b); and

''(B) meets the criteria specified in such strategy.''.

SEC. 12112. COMMUNITY-BASED PLANNING GRANTS.

The Act is amended by inserting after section 209, as added by section 12111 of this title, the following:

"SEC. 210. COMMUNITY-BASED PLANNING GRANTS.

''(a) IN GENERAL.—The Secretary may award grants to entities that have received grants under section 204 to provide additional funds to such entities to work with local communities and through appropriate Federal and State entities to prepare and implement plans for the increased protection of coral reef areas identified by the community and scientific experts as high priorities for focused attention. These plans shall—

''(1) support the attainment of 1 or more of the criteria described in section 204(g);

''(2) be developed at the community level;

''(3) utilize watershed-based approaches;

''(4) provide for coordination with Federal and State experts and managers; and

''(5) build upon local approaches, strategies, or models, including traditional or island-based resource management concepts.

''(b) TERMS AND CONDITIONS.—The provisions of subsections (b), (d), (f), and (h) of section 204 apply to grants awarded under subsection (a), except that, for the purpose of applying section 204(b)(1) to grants under this section, '75 percent' shall be substituted for '50 percent'.''.

SEC. 12113. VESSEL GROUNDING INVENTORY.

The Act is amended by inserting after section 210, as added by section 12112 of this title, the following:

"SEC. 211. VESSEL GROUNDING INVENTORY.

''(a) IN GENERAL.—The Secretary may maintain an inventory of all vessel grounding incidents involving coral reefs, including a description of—

''(1) the impacts to affected coral reef ecosystems;

''(2) vessel and ownership information, if available;

''(3) the estimated cost of removal, mitigation, or restoration;

''(4) the response action taken by the owner, the Secretary, the Commandant of the Coast Guard, or other Federal or State agency representatives;

''(5) the status of the response action, including the dates of vessel removal and mitigation or restoration and any actions taken to prevent future grounding incidents; and

''(6) recommendations for additional navigational aids or other mechanisms for preventing future grounding incidents.

''(b) IDENTIFICATION OF AT-RISK REEFS.—The Secretary may—

''(1) use information from any inventory maintained under subsection (a) or any other available information source to identify coral reef ecosystems that have a high incidence of vessel impacts, including groundings and anchor damage;

''(2) identify appropriate measures, including the acquisition and placement of aids to navigation, moorings, designated anchorage areas, fixed anchors and other devices, to reduce the likelihood of such impacts; and

''(3) develop a strategy and timetable to implement such measures, including cooperative actions with other government agencies and nongovernmental partners.''.

SEC. 12114. PROHIBITED ACTIVITIES.

(a) IN GENERAL.—The Act is amended by inserting after section 211, as added by section 12113 of this title, the following:

"SEC. 212. PROHIBITED ACTIVITIES AND SCOPE OF PROHIBITIONS.

''(a) PROVISIONS AS COMPLEMENTARY.—The provisions of this section are in addition to, and shall not affect the operation of, other Federal, State, or local laws or regulations providing protection to coral reef ecosystems.

''(b) DESTRUCTION, LOSS, TAKING, OR INJURY.—

''(1) IN GENERAL.—Except as provided in paragraph (2), it is unlawful for any person to destroy, take, cause the loss of, or injure any coral reef or any component thereof.

''(2) EXCEPTIONS.—The destruction, loss, taking, or injury of a coral reef or any component thereof is not unlawful if it—

''(A) was caused by the use of fishing gear used in a manner permitted under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) or other Federal or State law;

''(B) was caused by an activity that is authorized or allowed by Federal or State law (including lawful discharges from vessels, such as graywater, cooling water, engine exhaust, ballast water, or sewage from marine sanitation devices), unless the destruction, loss, or injury resulted from actions such as vessel groundings, vessel scrapings, anchor

damage, excavation not authorized by Federal or State permit, or other similar activities;

''(C) was the necessary result of bona fide marine scientific research (including marine scientific research activities approved by Federal, State, or local permits), other than excessive sampling or collecting, or actions such as vessel groundings, vessel scrapings, anchor damage, excavation, or other similar activities;

''(D) could not be reasonably avoided and was caused by a Federal Government agency during—

''(i) an emergency that posed an unacceptable threat to human health or safety or to the marine environment;

''(ii) an emergency that posed a threat to national security; or

''(iii) an activity necessary for law enforcement or search and rescue; or

''(E) was caused by an action taken by the master of the vessel in an emergency situation to ensure the safety of the vessel or to save a life at sea.

''(c) INTERFERENCE WITH ENFORCEMENT.—It is unlawful for any person to interfere with the enforcement of this title by—

''(1) refusing to permit any officer authorized to enforce this title to board a vessel (other than a vessel operated by the Department of Defense or United States Coast Guard) subject to such person's control for the purposes of conducting any search or inspection in connection with the enforcement of this title;

''(2) resisting, opposing, impeding, intimidating, harassing, bribing, interfering with, or forcibly assaulting any person authorized by the Secretary to implement this title or any such authorized officer in the conduct of any search or inspection performed under this title; or

''(3) submitting false information to the Secretary or any officer authorized to enforce this title in connection with any search or inspection conducted under this title.

''(d) VIOLATIONS OF TITLE, PERMIT, OR REGULATION.—It is unlawful for any person to violate any provision of this title, any permit issued pursuant to this title, or any regulation promulgated pursuant to this title.

''(e) POSSESSION AND DISTRIBUTION.—It is unlawful for any person to possess, sell, deliver, carry, transport, or ship by any means any coral taken in violation of this title.''.

(b) EMERGENCY ACTION REGULATIONS.—

(1) RULEMAKING.—The Secretary of Commerce shall—

(A) initiate a rulemaking proceeding to prescribe the circumstances and conditions under which the exception in section 212(b)(2)(E) of the Coral Reef Conservation Act of 2000, as added by subsection (a), applies; and

(B) issue a final rule pursuant to that rulemaking as soon as practicable but not later than 1 year after the date of enactment of this Act.

(2) SAVINGS PROVISION.—Nothing in this subsection may be construed to require the issuance of the regulations described in paragraph (1) before the exception provided by section 212(b)(2)(E) of the Coral Reef Conservation Act of 2000 is in effect.

SEC. 12115. DESTRUCTION OF CORAL REEFS.

The Act is amended by inserting after section 212, as added by section 12114 of this title, the following:

''SEC. 213. DESTRUCTION, LOSS, OR TAKING OF, OR INJURY TO, CORAL REEFS.

''(a) LIABILITY.—

''(1) LIABILITY TO THE UNITED STATES.—Except as provided in subsection (f), all persons who engage in an activity that is prohibited under subsection (b) or (d) of section 212, or create an imminent risk of such prohibited activity, are jointly and severally liable to the United States for an amount equal to the sum of—

''(A) response costs and damages resulting from the destruction, loss, taking, or injury, or imminent risk thereof, including damages resulting from the response actions;

''(B) costs of seizure, forfeiture, storage, and disposal arising from liability under this section; and

''(C) interest on that amount calculated in the manner described in section 1005 of the Oil Pollution Act of 1990 (33 U.S.C. 2705).

''(2) LIABILITY IN REM.—

''(A) IN GENERAL.—Any vessel used in an activity that is prohibited under subsection (b) or (d) of section 212, or creates an imminent risk of such prohibited activity, shall be liable in rem to the United States for an amount equal to the sum of—

''(i) response costs and damages resulting from such destruction, loss, or injury, or imminent risk thereof, including damages resulting from the response actions;

''(ii) costs of seizure, forfeiture, storage, and disposal arising from liability under this section; and

''(iii) interest on that amount calculated in the manner described in section 1005 of the Oil Pollution Act of 1990 (33 U.S.C. 2705).

''(B) MARITIME LIEN.—The amount of liability shall constitute a maritime lien on the vessel and may be recovered in an action in rem in any district court of the United States that has jurisdiction over the vessel.

''(3) DEFENSES.—A person or vessel is not liable under this subsection if that person or vessel establishes that the destruction, loss, taking, or injury was caused solely by an act of God, an act of war, or an act or omission of a third party (other than an employee or agent of the defendant or one whose act or omission occurs in connection with a contractual relationship, existing directly or indirectly with the defendant), and the person or master of the vessel acted with due care.

''(4) NO LIMIT TO LIABILITY.—Nothing in sections 30501 through 30512 of title 46, United States Code, or section 30706 of such title shall limit liability to any person under this title.

''(b) RESPONSE ACTIONS AND DAMAGE ASSESSMENT.—

''(1) RESPONSE ACTIONS.—The Secretary may undertake or authorize all necessary actions to prevent or minimize the destruction, loss, or taking of, or injury to, coral reefs, or components thereof, or to minimize the risk or imminent risk of such destruction, loss, or injury.

''(2) DAMAGE ASSESSMENT.—

''(A) IN GENERAL.—The Secretary shall—

''(i) assess damages (as defined in section 221(8)) to coral reefs; and

''(ii) consult with State officials regarding response and damage assessment actions undertaken for coral reefs within State waters.

''(B) NO DOUBLE RECOVERY.—There shall be no double recovery under this chapter for coral reef damages, including the cost of damage assessment, for the same incident.

''(c) COMMENCEMENT OF CIVIL ACTION FOR RESPONSE COSTS AND DAMAGES.—

''(1) COMMENCEMENT.—The Attorney General, upon the request of the Secretary, may commence a civil action against any person or vessel that may be liable under subsection (a) for response costs, seizure, forfeiture, storage, or disposal costs, and damages, and interest on that amount calculated in the manner described in section 1005 of the Oil Pollution Act of 1990 (33 U.S.C. 2705). The Secretary, acting as trustee for coral reefs for the United States, shall submit a request for such an action to the Attorney General whenever a person or vessel may be liable for such costs or damages.

''(2) VENUE IN CIVIL ACTIONS.—

''(A) IN GENERAL.—A civil action under this title may be brought in the United States district court for any district in which—

''(i) the defendant is located, resides, or is doing business, in the case of an action against a person;

''(ii) the vessel is located, in the case of an action against a vessel; or

''(iii) the destruction, loss, or taking of, or injury to a coral reef, or component thereof, occurred or in which there is an imminent risk of such destruction, loss, or injury.

''(B) OUTSIDE UNITED STATES JURISDICTION.—If some or all of the coral reef or component thereof that is the subject of a civil action under this title is not within the territory covered by any United States district court, such action may be brought in—

''(i) the United States district court for the district closest to the location where the destruction, loss, injury, or risk of injury occurred; or

''(ii) the United States District Court for the District of Columbia.

''(d) USE OF RECOVERED AMOUNTS.—

''(1) IN GENERAL.—Any costs, including response costs and damages recovered by the Secretary under this section shall—

''(A) be deposited into an account or accounts in the Damage Assessment Restoration Revolving Fund established by the Department of Commerce Appropriations Act, 1991 (33 U.S.C. 2706 note), or the Natural Resource Damage Assessment and Restoration Fund established by the Department of the Interior and Related Agencies Appropriations Act, 1992 (43 U.S.C. 1474b), as appropriate given the location of the violation;

''(B) be available for use by the Secretary without further appropriation and remain available until expended; and

''(C) be available, as the Secretary considers appropriate—

''(i) to reimburse the Secretary or any other Federal or State agency that conducted activities under subsection (a) or (b) for costs incurred in conducting the activity;

''(ii) to reimburse the Emergency Response, Stabilization, and Restoration Account established under section 208(d)(1) for amounts used for authorized emergency actions; and

''(iii) after reimbursement of such costs, to restore, replace, or acquire the equivalent of any coral reefs, or components thereof, including the reasonable costs of monitoring, or to minimize or prevent threats of equivalent injury to, or destruction of coral reefs, or components thereof.

''(2) RESTORATION CONSIDERATIONS.—In the development of restoration alternatives under paragraph (1)(C), the Secretary shall consider State and territorial preferences and, if appropriate, shall prioritize restoration projects with geographic and ecological linkages to the injured resources.

''(e) STATUTE OF LIMITATIONS.—An action for response costs or damages under subsection (c) shall be barred unless the complaint is filed not later than 3 years after the date on which the Secretary completes a damage assessment and restoration plan for the coral reefs, or components thereof, to which the action relates.

''(f) FEDERAL GOVERNMENT ACTIVITIES.—In the event of threatened or actual destruction of, loss of, or injury to a coral reef or component thereof resulting from an incident caused by a component of any Department or agency of the United States Government, the cognizant Department or agency shall satisfy its obligations under this section by promptly, in coordination with the Secretary, taking appropriate actions to respond to and mitigate the harm and restoring or replacing the coral reef or components thereof and reimbursing the Secretary for all assessment costs.''.

SEC. 12116. ENFORCEMENT.

The Act is amended by inserting after section 213, as added by section 12115 of this title, the following:

"SEC. 214. ENFORCEMENT.

''(a) IN GENERAL.—The Secretary shall conduct enforcement activities to carry out this title.

''(b) POWERS OF AUTHORIZED OFFICERS.—

''(1) IN GENERAL.—Any person who is authorized to enforce this title may—

''(A) board, search, inspect, and seize any vessel or other conveyance suspected of being used to violate this title, any regulation promulgated under this title, or any permit issued under this title, and any equipment, stores, and cargo of such vessel, except that such authority shall not exist with respect to vessels owned or time chartered by a uniformed service (as defined in section 101 of title 10, United States Code) as warships or naval auxiliaries;

''(B) seize wherever found any component of coral reef taken or retained in violation of this title, any regulation promulgated under this title, or any permit issued under this title;

''(C) seize any evidence of a violation of this title, any regulation promulgated under this title, or any permit issued under this title;

''(D) execute any warrant or other process issued by any court of competent jurisdiction;

''(E) exercise any other lawful authority; and

''(F) arrest any person, if there is reasonable cause to believe that such person has committed an act prohibited under section 212.

''(2) NAVAL AUXILIARY DEFINED.—In this subsection, the term 'naval auxiliary' means a vessel, other than a warship, that is owned by or under the exclusive control of a uniformed service and used at the time of the destruction, take, loss or injury for government, noncommercial service, including combat logistics force vessels, pre-positioned vessels, special mission vessels, or vessels exclusively used to transport military supplies and materials.

''(c) CIVIL ENFORCEMENT AND PERMIT SANCTIONS.—

''(1) CIVIL ADMINISTRATIVE PENALTY.—Any person subject to the jurisdiction of the United States who violates this title or any regulation promulgated or permit issued under this title, shall be liable to the United States for a civil administrative penalty of not more than $200,000 for each such violation, to be assessed by the Secretary. Each day of a continuing violation shall constitute a separate violation. In determining the amount of civil administrative penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, and any history of prior violations, and such other matters as justice may require. In assessing such penalty, the Secretary may also consider information related to the ability of the violator to pay.

''(2) PERMIT SANCTIONS.—The Secretary may deny, suspend, amend, or revoke, in whole or in part, any permit issued or applied for under this title by—

''(A) any person subject to the jurisdiction of the United States who violates this title or any regulation or permit issued under this title; or

''(B) any person who has failed to pay or defaulted on a payment agreement of any civil penalty or criminal fine or liability assessed pursuant to any natural resource law administered by the Secretary.

''(3) IMPOSITION OF CIVIL JUDICIAL PENALTIES.—Any person who violates any provision of this title or any regulation promulgated or permit issued under this title, shall be subject to a civil judicial penalty not to exceed $250,000 for each such violation. Each day of a continuing violation shall constitute a separate violation. The Attorney General, upon the request of the Secretary, may commence a civil action in an appropriate district court of the United States, and such court shall have jurisdiction to award civil penalties and such other relief as justice may require. In determining the amount of a civil penalty, the court shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior violations, and such other matters as justice may require. In imposing such penalty, the district court may also consider information related to the ability of the violator to pay.

''(4) NOTICE.—No penalty or permit sanction shall be assessed under this subsection until after the person charged has been given notice and an opportunity for a hearing.

''(5) IN REM JURISDICTION.—A vessel used in violating this title, any regulation promulgated under this title, or any permit issued under this title, shall be liable in rem for any civil penalty assessed for such violation. Such penalty shall constitute a maritime lien on the vessel and may be recovered in an action in rem in the district court of the United States having jurisdiction over the vessel.

''(6) COLLECTION OF PENALTIES.—If any person fails to pay an assessment of a civil penalty under this section after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General, who shall recover the amount assessed in any appropriate district court of the United States (plus interest at current prevailing rates from the date of the final order). In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review. Any person who fails to pay, on a timely basis, the amount of an assessment of a civil penalty shall be required to pay, in addition to such amount and interest, attorney's fees and costs for collection proceedings and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be in an amount equal to 20 percent of the aggregate amount of such person's penalties and nonpayment penalties that are unpaid as of the beginning of such quarter.

''(7) COMPROMISE OR OTHER ACTION BY SECRETARY.—The Secretary may compromise, modify, or remit, with or without conditions, any civil administrative penalty or permit sanction which is or may be imposed under this section and that has not been referred to the Attorney General for further enforcement action.

''(8) JURISIDICTION.—

''(A) IN GENERAL.—The several district courts of the United States shall have jurisdiction over any actions brought by the United States arising under this section.

''(B) OFFENSES.—Each violation shall be a separate offense and the offense shall be deemed to have been committed—

''(i) in the district in which the violation first occurred; and

''(ii) in any other district, as authorized by law.

''(C) AMERICAN SAMOA.—For the purpose of this paragraph, American Samoa shall be included within the judicial district of the District Court of the United States for the District of Hawaii.

''(d) FORFEITURE.—

''(1) CRIMINAL FORFEITURE.—

''(A) IN GENERAL.—A person who is convicted of an offense in violation of this title shall forfeit to the United States—

''(i) any property, real or personal, constituting or traceable to the gross proceeds taken, obtained, or retained, in connection with or as a result of the offense, including, without limitation, any coral reef or coral reef component (or the fair market value thereof); and

''(ii) any property, real or personal, used or intended to be used, in any manner, to commit or facilitate the commission of the offense, including, without limitation, any vessel (including the vessel's equipment, stores, catch and cargo), vehicle, aircraft, or other means of transportation.

''(B) APPLICABILITY OF CONTROLLED SUBSTANCES ACT.—Pursuant to section 2461(c) of title 28, United States Code, the provisions of subsections (a), (b), (c), and (e) through (q) of section 413 of the Controlled Substances Act (21 U.S.C. 853) shall apply to criminal forfeitures under this section.

''(2) CIVIL FORFEITURE.—Property subject to forfeiture to the United States, in accordance with the provisions of chapter 46 of title 18, United States Code, and to which no private property rights exist, includes—

''(A) any property, real or personal, constituting or traceable to the gross proceeds taken, obtained, or retained, in connection with or as a result of a violation of this title, including, without limitation, any coral reef or coral reef component (or the fair market value thereof); and

''(B) any property, real or personal, used or intended to be used, in any manner, to commit or facilitate the commission of a violation of this title, including, without limitation, any vessel (including the vessel's equipment, stores, catch and cargo), vehicle, aircraft, or other means of transportation.

''(3) APPLICATION OF THE CUSTOMS LAWS.—All provisions of law relating to seizure, summary judgment, and judicial forfeiture and condemnation for violation of the customs laws, the disposition of the property forfeited or condemned or the proceeds from the sale of such property, the remission or mitigation of such forfeitures, and the compromise of claims shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this title, insofar as applicable and not inconsistent with the provisions of this section. For seizures and forfeitures of property under this section by the Secretary, the duties imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs law may be performed by officers designated by the Secretary or, upon request of the Secretary, by any other agency that has authority to manage and dispose of seized property.

''(4) PRESUMPTION.—For the purposes of this section, there is a rebuttable presumption that all coral reefs, or components thereof, found onboard a vessel that is used or seized in connection with a violation of this title or of any regulation promulgated under this title were taken, obtained, or retained in violation of this title or of a regulation promulgated under this title.

''(e) PAYMENT OF STORAGE, CARE, AND OTHER COSTS.—Any person assessed a civil penalty for a violation of this title or of any regulation promulgated under this title and any claimant in a forfeiture action brought for such a violation, shall be liable for the reasonable costs incurred by the Secretary in storage, care, and maintenance of any property seized in connection with the violation.

''(f) EXPENDITURES.—

''(1) DISPOSITION OF RECEIPTS.—Notwithstanding section 3302 of title 31, United

States Code, or section 311 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861), amounts received by the United States as civil penalties under subsection (c) of this section, forfeitures of property under subsection (d) of this section, and costs imposed under subsection (e) of this section, shall—

''(A) be placed into an account;

''(B) be available for use by the Secretary without further appropriation; and

''(C) remain available until expended.

''(2) USE OF FORFEITURES AND STORAGE REIMBURSEMENTS.—Amounts received under this section for forfeitures under subsection (d) and costs imposed under subsection (e) shall be used to pay the reasonable and necessary costs incurred by the Secretary to provide temporary storage, care, maintenance, and disposal of any property seized in connection with a violation of this title or any regulation promulgated under this title.

''(3) USE OF CIVIL PENALTIES.—Amounts received under this section as civil penalties under subsection (c) and any amounts remaining after the operation of paragraph (2) of this subsection shall be—

''(A) used to stabilize, restore, or otherwise manage the coral reef with respect to which the violation occurred that resulted in the penalty or forfeiture;

''(B) transferred to the Emergency Response, Stabilization, and Restoration Account established under section 208(d) or an account described in section 213(d)(1), to reimburse such account for amounts used for authorized emergency actions;

''(C) used to conduct monitoring and enforcement activities;

''(D) used to conduct research on techniques to stabilize and restore coral reefs;

''(E) used to conduct activities that prevent or reduce the likelihood of future damage to coral reefs;

''(F) used to stabilize, restore or otherwise manage any other coral reef; or

''(G) used to pay a reward to any person who furnishes information leading to an assessment of a civil penalty, or to a forfeiture of property, for a violation of this title or any regulation promulgated under this title.

''(g) CRIMINAL ENFORCEMENT.—

''(1) INTERFERENCE WITH ENFORCEMENT.—Any person (other than a foreign government or any entity of such government) who knowingly commits any act prohibited under section 212(c)—

''(A) shall be imprisoned for not more than 5 years;

''(B) shall be fined not more than $500,000 (for an individual) or $1,000,000 (for an organization); and

''(C) if in the commission of any such offense the individual uses a dangerous weapon, engages in conduct that causes bodily injury to any officer authorized to enforce the provisions of this title, or places any such officer in fear of imminent bodily injury, shall be imprisoned for not more than 10 years.

''(2) INTENTIONAL VIOLATION.—Any person (other than a foreign government or any entity of such government) who knowingly violates subsection (b), (d), or (e) of section 212 shall be fined under title 18, United States Code, imprisoned not more than 5 years, or both.

''(3) NEGLIGENT VIOLATION.—Any person (other than a foreign government or any entity of such government) who violates subsection (b), (d), or (e) of section 212, and who, in the exercise of due care should know that such person's conduct violates subsection (b), (d), or (e) of section 212, shall be fined under title 18, United States Code, imprisoned not more than 1 year, or both.

''(4) JURISDICTION.—The district courts of the United States shall have jurisdiction over any actions brought by the United States arising under this subsection. Each violation shall be a separate offense and the offense shall be deemed to have been committed not only in the district where the violation first occurred, but also in any other district as authorized by law. Any offenses not committed in any district are subject to the venue provisions of section 3238 of title 18, United States Code. For the purpose of this paragraph, American Samoa shall be included within the judicial district of the District Court of the United States for the District of Hawaii.

''(h) SUBPOENAS.—In the case of any investigation or hearing under this section or any other natural resource statute administered by the National Oceanic and Atmospheric Administration which is determined on the record in accordance with the procedures provided for under section 554 of title 5, United States Code, the Secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, electronic files, and documents, and may administer oaths.

''(i) PRESERVATION OF COAST GUARD AUTHORITY.—Nothing in this section may be construed to limit the authority of the Coast Guard to enforce this or any other Federal law under section 89 of title 14, United States Code.

''(j) INJUNCTIVE RELIEF.—

''(1) ACTUAL OR IMMINENT RISK OF DESTRUCTION.—If the Secretary determines that there is an imminent risk of destruction or loss of, or injury to, a coral reef, or that there has been actual destruction or loss of, or injury to, a coral reef which may give rise to liability under section 213 of this title, the Attorney General, upon request of the Secretary, shall seek to obtain such relief as may be necessary to abate such risk or actual destruction, loss, or injury, or to restore or replace the coral reef, or both. The district courts of the United States shall have jurisdiction in such a case to order such relief as the public interest and the equities of the case may require.

''(2) VIOLATION OF TITLE.—Upon the request of the Secretary, the Attorney General may seek to enjoin any person who is alleged to be in violation of any provision of this title, or any regulation or permit issued under this title, and the district courts shall have jurisdiction to grant such relief.

''(k) AREA OF APPLICATION AND ENFORCEABILITY.—The area of application and enforceability of this title includes the internal waters of the United States, the territorial sea of the United States, as described in Presidential Proclamation 5928 of December 27, 1988, the Exclusive Economic Zone of the United States as described in Presidential Proclamation 5030 of March 10, 1983, and the continental shelf, consistent with international law.

''(l) NATIONWIDE SERVICE OF PROCESS.—In any action by the United States under this title, process may be served in any district where the defendant is found, resides, transacts business, or has appointed an agent for the service of process, and for civil cases may also be served in a place not within the United States in accordance with rule 4 of the Federal Rules of Civil Procedure.

''(m) VENUE IN CIVIL ACTIONS.—

''(1) IN GENERAL.—A civil action under this title may be brought in the United States district court for any district in which—

''(A) the defendant is located, resides, or is doing business, in the case of an action against a person;

''(B) the vessel is located, in the case of an action against a vessel; or

''(C) the destruction of, loss of, or injury to a coral reef, or component thereof, occurred or in which there is an imminent risk of such destruction, loss, or injury.

''(2) EXTRATERRITORIAL JURISDICTION.—If some or all of the coral reef or a component of the coral reef that is the subject of the action is not within the territory covered by any United States district court, such action may be brought in—

''(A) the United States district court for the district closest to the location in which the destruction, loss, injury, or risk of injury occurred; or

''(B) the United States District Court for the District of Columbia.''.

SEC. 12117. PERMITS.

The Act is amended by inserting after section 214, as added by section 12116 of this title, the following:

''SEC. 215. PERMITS.

''(a) IN GENERAL.—The Secretary may issue coral reef conservation permits, in accordance with regulations issued under this title, to allow for the conduct of—

''(1) bona fide research; and

''(2) activities that would otherwise be prohibited under this title or the regulations issued under this title.

''(b) LIMITATION OF NON-RESEARCH ACTIVITIES.—The Secretary may not issue a permit under this section for activities other than for bona fide research unless the Secretary determines that—

''(1) the activity proposed to be conducted is compatible with 1 or more of the purposes set forth in section 202(b);

''(2) the activity conforms to the provisions of all other laws and regulations applicable to the area for which such permit is to be issued; and

''(3) there is no practicable alternative to conducting the activity in a manner that destroys, causes the loss of, or injures any coral reef or any component of a coral reef.

''(c) TERMS AND CONDITIONS.—The Secretary may place any terms and conditions on a permit issued under this section that the Secretary considers to be reasonable.

''(d) FEES.—

''(1) ASSESSMENT AND COLLECTION.—Subject to regulations issued under this title, the Secretary may assess and collect fees as specified in this subsection.

''(2) AMOUNT.—Any fee assessed for a permit issued under this section shall be equal to the sum of—

''(A) all costs incurred, or expected to be incurred, by the Secretary in processing the permit application, including indirect costs; and

''(B) if the permit is approved, all costs incurred, or expected to be incurred, by the Secretary as a direct result of the conduct of the activity for which the permit is issued, including costs of monitoring the conduct of the activity and educating the public about the activity and coral reef resources related to the activity.

''(3) COLLECTION AND USE OF FEES.—Fees collected by the Secretary under this subsection—

''(A) shall be available for use only to the extent provided in advance in appropriations Acts; and

''(B) may be used by the Secretary for issuing and administering permits under this section.

''(4) WAIVER OR REDUCTION OF FEES.—For any fee assessed under paragraph (2) of this subsection, the Secretary may—

''(A) accept in-kind contributions in lieu of a fee; or

''(B) waive or reduce the fee.

''(e) FISHING.—Nothing in this section may be considered to require a person to obtain a permit under this section for the conduct of any fishing activities not prohibited by this title or regulations issued under this title.''.

SEC. 12118. REGIONAL, STATE, AND TERRITORIAL COORDINATION.

The Act is amended by inserting after section 215, as added by section 12117 of this title, the following:

"SEC. 216. REGIONAL, STATE, AND TERRITORIAL COORDINATION.

''(a) REGIONAL COORDINATION.—The Secretary and other Federal members of the Coral Reef Task Force shall work in coordination and collaboration with other Federal agencies, States, and United States territorial governments to implement the strategies developed under section 203, including regional and local strategies, to address multiple threats to coral reefs and coral reef ecosystems.

''(b) RESPONSE AND RESTORATION ACTIVITIES.—The Secretary shall enter into written agreements with any States in which coral reefs are located regarding the manner in which response and restoration activities will be conducted within the affected State's waters. Nothing in this subsection may be construed to limit Federal response and restoration activity authority before any such agreement is final.

''(c) COOPERATIVE ENFORCEMENT AGREEMENTS.—All cooperative enforcement agreements in place between the Secretary and States affected by this title shall be updated to include enforcement of this title where appropriate.''.

SEC. 12119. REGULATIONS.

The Act is amended by inserting after section 216, as added by section 12118, the following:

"SEC. 217. REGULATIONS.

''(a) IN GENERAL.—The Secretary may issue such regulations as are necessary and appropriate to carry out the purposes of this title.

''(b) APPLICATION.—This title and any regulations promulgated under this title shall be applied in accordance with international law.

''(c) LIMITATION.—No restrictions under this title shall apply to or be enforced against a person who is not a citizen, national, or resident alien of the United States (including foreign flag vessels) unless in accordance with international law.''.

SEC. 12120. EFFECTIVENESS AND ASSESSMENT REPORT.

Section 218, as redesignated by section 12107(3) of this title, is amended to read as follows:

"SEC. 218. EFFECTIVENESS AND ASSESSMENT REPORT.

''(a) EFFECTIVENESS REPORT.—Not later than March 1, 2011, and every 3 years thereafter, the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Natural Resources of the House of Representatives that describes all activities undertaken to implement the strategy, including—

''(1) a description of the funds obligated by each participating Federal agency to advance coral reef conservation during each of the 3 fiscal years after the fiscal year in which the report is submitted;

''(2) a description of Federal interagency and cooperative efforts with States and United States territories to prevent or address overharvesting, coastal runoff, or other anthropogenic impacts on coral reefs, including projects undertaken with the Department of the Interior, Department of Agriculture, the Environmental Protection Agency, and the United States Army Corps of Engineers;

''(3) a summary of the information contained in the vessel grounding inventory established under section 210, including additional authorization or funding, needed for response and removal of such vessels; and

''(4) a description of Federal disaster response actions taken pursuant to the National Response Plan to address damage to coral reefs and coral reef ecosystems.

''(b) ASSESSMENT REPORT.—Not later than March 1, 2014, and every 5 years thereafter, the Secretary will submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Natural Resources of the House of Representatives that contains an assessment of the conditions of United States coral reefs, accomplishments under this title, and the effectiveness of management actions to address threats to coral reefs.''.

SEC. 12121. AUTHORIZATION OF APPROPRIATIONS.

Section 219, as redesignated by section 12107(4) of this title, is amended—

(1) by amending subsection (a) to read as follows:

''(a) AMOUNTS AUTHORIZED.—

''(1) IN GENERAL.—There are authorized to be appropriated to the Secretary to carry out this title—

''(A) $34,000,000 for fiscal year 2011;

''(B) $36,000,000 for fiscal year 2012;

''(C) $38,000,000 for fiscal year 2013; and

''(D) $40,000,000 for each of the fiscal years 2014 through 2015.

''(2) ALLOCATIONS.—Of the amounts authorized in each fiscal year pursuant to paragraph (1)—

''(A) not less than 24 percent shall be used for the coral reef conservation grant program authorized under section 204;

''(B) not less than 6 percent shall be used for Fishery Management Councils; and

''(C) up to 10 percent shall be used for the account referred to in section 205(a).'';

(2) in subsection (b), by striking ''$1,000,000'' and inserting ''$2,000,000''; and

(3) by striking subsections (c) and (d) and inserting the following:

''(c) COMMUNITY-BASED PLANNING GRANTS.—There are authorized to be appropriated to the Secretary for the 5-year period ending on September 30, 2015, $10,000,000, which shall be used to carry out the grant program authorized under section 210 and shall remain available until expended.

''(d) INTERNATIONAL CORAL REEF CONSERVATION PROGRAM.—There are authorized to be appropriated to the Secretary for each of the fiscal years 2011 through 2015, $8,000,000, which shall be used to carry out international coral reef conservation activities authorized under section 209 and shall remain available until expended.''.

SEC. 12122. JUDICIAL REVIEW.

The Act is amended by inserting after section 219, as redesignated by section 12107(4) of this title, the following:

"SEC. 220. JUDICIAL REVIEW.

''(a) IN GENERAL.—Chapter 7 of title 5, United States Code, shall not apply to any action taken by the Secretary under this title, except that—

''(1) a final agency action taken by the Secretary pursuant to paragraph (1) or (2) of sections 214(c) may not be reviewed unless an interested person files a complaint, not later than 30 days after the date of such action, in the United States District Court for the appropriate district; and

''(2) a final agency action taken by the Secretary pursuant to section 215 may not be reviewed unless an interested person files a petition for review, not later than 120 days after the date of such action, in the Circuit Court of Appeals of the United States for the Federal judicial district in which such person resides or transacts business that is directly affected by such action.

''(b) NO REVIEW IN ENFORCEMENT PROCEEDINGS.—Final agency action with respect to which review could have been obtained under subsection (a)(2) shall not be subject to judicial review in any civil or criminal proceeding for enforcement.

''(c) COST OF LITIGATION.—In any judicial proceeding under subsection (a), the court may award costs of litigation (including reasonable attorney and expert witness fees) to any prevailing party if the court determines that such award is appropriate.''.

SEC. 12123. DEFINITIONS.

Section 221, as redesignated by section 12107(5) of this title, is amended to read as follows:

"SEC. 221. DEFINITIONS.

''In this title:

''(1) BIODIVERSITY.—The term 'biodiversity' means the variability among living organisms from all sources, including terrestrial, marine, and other aquatic ecosystems and the ecological complexes of which they are part, and diversity within species, between species, and of ecosystems.

''(2) BONA FIDE RESEARCH.—The term 'bona fide research' means scientific research on corals, the results of which are likely—

''(A) to be eligible for publication in a refereed scientific journal;

''(B) to contribute to the basic knowledge of coral biology or ecology; or

''(C) to identify, evaluate, or resolve conservation problems.

''(3) CORAL.—The term 'coral' means species of the phylum Cnidaria, including—

''(A) all species of the orders Antipatharia (black corals), Scleractinia (stony corals), Gorgonacea (horny corals), Stolonifera (organpipe corals and others), Alcyonacea (soft corals), and Helioporacea (blue coral) of the class Anthozoa; and

''(B) all species of the families Milleporidea (fire corals) and Stylasteridae (stylasterid hydrocorals) of the class Hydrozoa.

''(4) CORAL REEF.—The term 'coral reef' means limestone structures composed in whole or in part of living corals, as described in paragraph (3), their skeletal remains, or both, and including other corals, associated sessile invertebrates and plants, and associated seagrasses.

''(5) CORAL REEF COMPONENT.—The term 'coral reef component' means any part of a coral reef, including individual living or dead corals, associated sessile invertebrates and plants, and any adjacent or associated seagrasses.

''(6) CORAL REEF ECOSYSTEM.—The term 'coral reef ecosystem' means the system of coral reefs and geographically associated species, habitats, and environment, including any adjacent or associated mangroves and seagrass habitats, and the processes that control its dynamics.

''(7) CORAL PRODUCTS.—The term 'coral products' means any living or dead specimens, parts, or derivatives, or any product containing specimens, parts, or derivatives, of any species referred to in paragraph (3).

''(8) DAMAGES.—The term 'damages' includes—

''(A) compensation for—

''(i) the cost of replacing, restoring, or acquiring the equivalent of the coral reef, or a component of the coral reef; and

''(ii) the lost services of, or the value of the lost use of, the coral reef or component thereof, or the cost of activities to minimize or prevent threats of, equivalent injury to, or destruction of coral reefs or components thereof, pending restoration or replacement or the acquisition of an equivalent coral reef or a component of the coral reef;

''(B) the reasonable cost of damage assessments under section 213;

''(C) the reasonable costs incurred by the Secretary in implementing section 208(d);

''(D) the reasonable cost of monitoring appropriate to the injured, restored, or replaced resources;

''(E) the reasonable cost of curation, conservation and loss of contextual information of any coral encrusted archaeological, historical, and cultural resource;

''(F) the cost of legal actions under section 213, undertaken by the United States, associated with the destruction or loss of, or injury to, a coral reef or component thereof, including the costs of attorney time and expert witness fees; and

''(G) the indirect costs associated with the costs listed in subparagraphs (A) through (F) of this paragraph.

''(9) EMERGENCY ACTIONS.—The term 'emergency actions' means all necessary actions to prevent or minimize the additional destruction or loss of, or injury to, coral reefs or components of coral reefs, or to minimize the risk of such additional destruction, loss, or injury.

''(10) EXCLUSIVE ECONOMIC ZONE.—The term 'Exclusive Economic Zone' means the waters of the Exclusive Economic Zone of the United States under Presidential Proclamation 5030, dated March 10, 1983.

''(11) PERSON.—The term 'person' means any individual, private or public corporation, partnership, trust, institution, association, or any other public or private entity, whether foreign or domestic, private person or entity, or any officer, employee, agent, Department, agency, or instrumentality of the Federal Government, of any State or local unit of government, or of any foreign government.

''(12) RESPONSE COSTS.—The term 'response costs' means the costs of actions taken or authorized by the Secretary to minimize destruction or loss of, or injury to, a coral reef, or a component of a coral reef, or to minimize the imminent risks of such destruction, loss, or injury, including costs related to seizure, forfeiture, storage, or disposal arising from liability under section 213.

''(13) SECRETARY.—The term 'Secretary' means—

''(A) for purposes of sections 201 through 211, sections 218 through 220 (except as otherwise provided in subparagraph (B)), and this section, the Secretary of Commerce, acting through the Administrator of the National Oceanic and Atmospheric Administration; and

''(B) for purposes of sections 212 through 218 and 220—

''(i) the Secretary of the Interior for any coral reef or component thereof located in (I) the National Wildlife Refuge System, (II) the National Park System, and (III) the waters surrounding Wake Island under the jurisdiction of the Secretary of the Interior, as set forth in Executive Order 11048 (27 Fed. Reg. 8851 (September 4, 1962)); or

''(ii) the Secretary of Commerce for any coral reef or component thereof located in any area not described in clause (i).

''(14) SERVICE.—The term 'service' means functions, ecological or otherwise, performed by a coral reef or a component of a coral reef.

''(15) STATE.—The term 'State' means any State of the United States that contains a coral reef ecosystem within its seaward boundaries, American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands, and any other territory or possession of the United States, or separate sovereign in free association with the United States, that contains a coral reef ecosystem within its seaward boundaries.

''(16) TERRITORIAL SEA.—The term 'Territorial Sea' means the waters of the Territorial Sea of the United States under Presidential Proclamation 5928, dated December 27, 1988.''.

DIVISION L—INDIAN HOMELANDS AND TRUST LAND

TITLE CXXX—LEASE AUTHORITY

SEC. 13001. SHORT TITLE.

This title may be cited as the ''Blackfoot River Land Settlement Act of 2010''.

SEC. 13002. FINDING; PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) it is the policy of the United States to promote tribal self-determination and economic self-sufficiency and encourage the resolution of disputes over historical claims through mutually agreed upon settlements between Indian tribes and the United States;

(2) the Shoshone-Bannock Tribes, a federally recognized Indian tribe with tribal headquarters at Fort Hall, Idaho—

(A) adopted a tribal constitution and bylaws on March 31, 1936, that were approved by the Secretary of the Interior on April 30, 1936, pursuant to the Act of June 18, 1934 (25 U.S.C. 461 et seq.) (commonly known as the ''Indian Reorganization Act'');

(B) has entered into various treaties with the United States, including the Second Treaty of Fort Bridger, executed on July 3, 1868; and

(C) has maintained a continuous government-to-government relationship with the United States since the earliest years of the Union;

(3)(A) in 1867, President Andrew Johnson designated by Executive order the Fort Hall Reservation for various bands of Shoshone and Bannock Indians;

(B) the Reservation is located near the cities of Blackfoot and Pocatello in southeastern Idaho; and

(C) article 4 of the Second Treaty of Fort Bridger secured the Reservation as a ''permanent home'' for the Shoshone-Bannock Tribes;

(4)(A) according to the Executive order referred to in paragraph (3)(A), the Blackfoot River, as the river existed in its natural state—

(i) is the northern boundary of the Reservation; and

(ii) flows in a westerly direction along that northern boundary; and

(B) within the Reservation, land use in the River watershed is dominated by—

(i) rangeland;

(ii) dry and irrigated farming; and

(iii) residential development;

(5)(A) in 1964, the Corps of Engineers completed a local flood protection project on the River—

(i) authorized by section 204 of the Flood Control Act of 1950 (64 Stat. 170); and

(ii) sponsored by the Blackfoot River Flood Control District No. 7;

(B) the project consisted of building levees, replacing irrigation diversion structures, replacing bridges, and channel realignment; and

(C) the channel realignment portion of the project severed various parcels of land located contiguous to the River along the boundary of the Reservation, resulting in Indian land being located north of the Realigned River and non-Indian land being located south of the Realigned River;

(6) beginning in 1999, the Cadastral Survey Office of the Bureau of Land Management conducted surveys of—

(A) 25 parcels of Indian land; and

(B) 19 parcels of non-Indian land;

(7) many non-Indian landowners and non-Indians acquiring Indian land have filed claims in the Snake River Basin Adjudication seeking water rights that included a place of use on Indian land; and

(8) the enactment of this Act and the distribution of funds in accordance with section 13012(b) would represent an agreement among—

(A) the Tribes;

(B) the allottees;

(C) the non-Indians acquiring Indian land; and

(D) the non-Indian landowners.

(b) PURPOSES.—The purposes of this title are—

(1) to resolve the disputes resulting from realignment of the River by the Corps of Engineers during calendar year 1964 pursuant to the project described in subsection (a)(5)(A); and

(2) to achieve a fair, equitable, and final settlement of all claims and potential claims arising from those disputes.

SEC. 13003. DEFINITIONS.

In this title:

(1) ALLOTTEE.—The term ''allottee'' means an heir of an original allottee of the Reservation who owns an interest in a parcel of land that is—

(A) held in trust by the United States for the benefit of the allottee; and

(B) located north of the Realigned River within the exterior boundaries of the Reservation.

(2) INDIAN LAND.—The term ''Indian land'' means any parcel of land that is—

(A) held in trust by the United States for the benefit of the Tribes or the allottees;

(B) located north of the Realigned River; and

(C) identified in exhibit A of the survey of the Bureau of Land Management entitled ''Survey of the Blackfoot River of 2002 to 2005'', which is located at—

(i) the Fort Hall Indian Agency office of the Bureau of Indian Affairs; and

(ii) the Blackfoot River Flood Control District No. 7, 75 East Judicial, Blackfoot, Idaho.

(3) NON-INDIAN ACQUIRING INDIAN LAND.—The term ''non-Indian acquiring Indian land'' means any individual or entity that—

(A) has acquired or plans to acquire Indian land; and

(B) is included on the list contained in exhibit C of the survey referred to in paragraph (2)(C).

(4) NON-INDIAN LAND.—The term ''non-Indian land'' means any parcel of fee land that is—

(A) located south of the Realigned River; and

(B) identified in exhibit B of the survey referred to in paragraph (2)(C).

(5) NON-INDIAN LANDOWNER.—The term ''non-Indian landowner'' means any individual who holds fee title to non-Indian land.

(6) REALIGNED RIVER.—The term ''Realigned River'' means that portion of the River that was realigned by the Corps of Engineers during calendar year 1964 pursuant to the project described in section 13002(a)(5)(A).

(7) RESERVATION.—The term ''Reservation'' means the Fort Hall Reservation established by Executive order during calendar year 1867 and confirmed by treaty during calendar year 1868.

(8) RIVER.—The term ''River'' means the Blackfoot River located in the State of Idaho.

(9) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(10) TRIBES.—The term ''Tribes'' means the Shoshone-Bannock Tribes.

SEC. 13004. EXTINGUISHMENT OF CLAIMS AND TITLE.

Except as provided in sections 13005 and 13006, effective beginning on the date on which the amounts appropriated pursuant to section 13012 are distributed in accordance with that section, all claims and all past, present, and future right, title, and interest in and to the Indian land and non-Indian land shall be extinguished.

SEC. 13005. LAND TO BE PLACED IN TRUST FOR TRIBES.

Effective beginning on the date on which the amounts appropriated pursuant to section 13012 are distributed in accordance with that section to the Blackfoot River Flood Control District No. 7, the non-Indian land shall be considered to be held in trust by the United States for the benefit of the Tribes.

SEC. 13006. TRUST LAND TO BE CONVERTED TO FEE LAND.

Effective beginning on the date on which the amounts appropriated pursuant to section 13012 are distributed in accordance with that section to the tribal trust fund account and the allottee trust account, the Indian land shall be transferred to the Blackfoot River Flood Control District No. 7 for conveyance to the non-Indians acquiring Indian land.

SEC. 13007. TRIBAL TRUST FUND ACCOUNT AND ALLOTTEE TRUST ACCOUNT.

(a) TRIBAL TRUST FUND ACCOUNT.—

(1) ESTABLISHMENT.—There is established in the Treasury of the United States an account, to be known as the ''tribal trust fund account'', consisting of such amounts as are deposited in the account under section 13012(b)(1).

(2) INVESTMENT.—The Secretary of the Treasury shall invest amounts in the tribal trust fund account for the benefit of the Tribes, in accordance with applicable laws and regulations.

(3) DISTRIBUTION.—The Secretary of the Treasury shall distribute amounts in the tribal trust fund account to the Tribes pursuant to a budget adopted by the Tribes that contains a description of—

(A) the amounts required by the Tribes; and

(B) the intended uses of the amounts, in accordance with paragraph (4).

(4) USE OF FUNDS.—The Tribes may use amounts in the tribal trust fund account (including interest earned on those amounts), without fiscal year limitation, for activities relating to—

(A) construction of a natural resources facility;

(B) water resources needs;

(C) economic development;

(D) land acquisition; and

(E) such other purposes as the Tribes determine to be appropriate.

(b) ALLOTTEE TRUST ACCOUNT.—

(1) ESTABLISHMENT.—There is established in the Treasury of the United States an account, to be known as the ''allottee trust account'', consisting of such amounts as are deposited in the account under section 13012(b)(2).

(2) DEPOSIT INTO IIMS.—Not later than 60 days after the date on which amounts are deposited in the allottee trust account under section 13012(b)(2), the Secretary of the Treasury shall deposit the amounts into individual Indian money accounts for the allottees.

(3) INVESTMENT.—The Secretary of the Treasury shall invest amounts in the individual Indian money accounts under paragraph (2) in accordance with applicable laws and regulations.

SEC. 13008. ATTORNEY FEES.

(a) IN GENERAL.—Subject to subsection (b), of the amounts appropriated pursuant to section 13012(a), the Secretary shall pay to the attorneys of the Tribes and the non-Indian landowners such attorneys fees as are approved by the Tribes and the non-Indian landowners.

(b) LIMITATION.—The total amount of attorneys fees paid by the Secretary under subsection (a) shall not exceed 2 percent of the amounts distributed to the Tribes, allottees, and the non-Indian landowners under section 13012(b).

SEC. 13009. EFFECT ON ORIGINAL RESERVATION BOUNDARY.

Nothing in this title affects the original boundary of the Reservation, as established by Executive order during calendar year 1867 and confirmed by treaty during calendar year 1868.

SEC. 13010. EFFECT ON TRIBAL WATER RIGHTS.

Nothing in this title extinguishes or conveys any water rights of the Tribes, as established in the agreement entitled ''1990 Fort Hall Indian Water Rights Agreement'' and ratified by section 4 of the Fort Hall Indian Water Rights Act of 1990 (Public Law 101-602; 104 Stat. 3060).

SEC. 13011. DISCLAIMERS REGARDING CLAIMS.

Nothing in this title—

(1) affects in any manner the sovereign claim of the State of Idaho to title in and to the beds and banks of the River under the equal footing doctrine of the Constitution of the United States;

(2) affects any action by the State of Idaho to establish that title under section 2409a of title 28, United States Code (commonly known as the ''Quiet Title Act'');

(3) affects the ability of the Tribes or the United States to claim ownership of the beds and banks of the River; or

(4) extinguishes or conveys any water rights of non-Indian landowners or the claims of such landowners to water rights in the Snake River Basin Adjudication.

SEC. 13012. FUNDING.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this title $1,000,000.

(b) DISTRIBUTION.—After the date on which all attorneys fees are paid under section 13008, the amount appropriated pursuant to subsection (a) shall be distributed among the Tribes, the allottees, and the Blackfoot River Flood Control District No. 7 as follows:

(1) 28 percent shall be deposited into the tribal trust fund account established by section 13007(a)(1).

(2) 25 percent shall be deposited into the allottee trust account established by section 13007(b)(1).

(3) 47 percent shall be provided to the Blackfoot River Flood Control District No. 7 for—

(A) distribution to the non-Indian landowners on a pro rata, per-acre basis; and

(B) associated administrative expenses.

(c) PER CAPITA PAYMENTS PROHIBITED.—No amount received by the Tribes under this title shall be distributed to a member of the Tribes on a per capita basis.

SEC. 13013. EFFECTIVE DATE.

This title takes effect on the date on which the amount described in section 13012(a) is appropriated.

DIVISION M—BUDGETARY EFFECTS

SEC. 14001. BUDGETARY EFFECTS.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go-Act of 2010, shall be determined by reference to the latest statement titled ''Budgetary Effects of PAYGO Legislation'' for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

SA 4846. Mr. VITTER (for himself, Mr. RISCH, Mr. INHOFE, and Mr. BARRASSO) submitted an amendment intended to be proposed by him to Treaty Doc. 111–5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

In Article V of the Treaty, strike section 3.

SA 4847. Mr. LEMIEUX (for himself and Mr. CHAMBLISS) submitted an amendment intended to be proposed by him to Treaty Doc. 111–5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

At the end of Article I of the New START Treaty, add the following:

3. The Parties shall enter into negotiations within one year of ratification of this Treaty to address the disparity between the nonstrategic (tactical) nuclear weapons stockpiles of the Parties, in accordance with the September 1991 United States commitments under the Presidential Nuclear Initiatives and Russian Federation commitments made by President Gorbachev in October 1991 and reaffirmed by President Yeltsin in January 1992. The negotiations shall not include discussion of defensive missile systems.

PRIVILEGES OF THE FLOOR

Mr. KERRY. Mr. President, I ask unanimous consent, on behalf of Senator MANCHIN, that Sylvia Pletos, a military fellow and New START treaty specialist on his staff, be granted the privilege of the floor during the balance of today's session.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed en bloc to Executive Calendar Nos. 937 and 1093; that the nominations be confirmed en bloc and the motions to reconsider be considered made and laid upon the table; that any statements relating to the nominations be printed in the RECORD as if read; that the President be immediately notified of the Senate's action; further, that on Saturday, December 18, after the cloture votes with respect to the House messages regarding H.R. 5281 and H.R. 2965, and notwithstanding rule XXII, if applicable, the Senate resume executive session and there be 2 minutes of debate equally divided and controlled between Senators LEAHY and SESSIONS or their designees prior to a vote on confirming Calendar No. 656, Albert Diaz, and Calendar No. 936, Ellen Hollander; that upon the use or yielding back of that time, the Senate proceed to vote on confirmation in the order listed; that upon confirmation, the motions to reconsider be considered made and laid upon the table; that any statements relating to the nominations be

printed in the RECORD as if read and the President be immediately notified of the Senate's action; further, that any time consumed during the votes and debate on the judges count postcloture, if applicable, and the Senate then resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

THE JUDICIARY

Susan Richard Nelson, of Minnesota, to be United States District Judge for the District of Minnesota.

Denise Jefferson Casper, of Massachusetts, to be United States District Judge for the District of Massachusetts.

ORDERS FOR SATURDAY, DECEMBER 18, 2010

Mr. DURBIN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9 a.m. on Saturday, December 18; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day; that following any leader remarks, the Senate resume executive session to consider the New START treaty; that following any leader remarks in executive session, the Senate proceed to legislative session and be in a period of morning business until 10:30 a.m., with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees; at that at 10:30 a.m., the Senate resume consideration of the House message with respect to H.R. 5281 and proceed to vote on the motion to invoke cloture on the motion to concur with respect to H.R. 5281; and that if cloture is not invoked, there be 2 minutes for debate equally divided prior to the next vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DURBIN. Mr. President, Senators should expect a series of up to four rollcall votes at 10:30 a.m. tomorrow. The first vote will be on cloture with respect to the DREAM Act. If cloture is not invoked, the next vote would be cloture with respect to don't ask, don't tell. The final two votes will be on confirmation of two judicial nominations.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. DURBIN. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 10:07 p.m., adjourned until Saturday, December 18, 2010, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate:

OFFICE OF SPECIAL COUNSEL

CAROLYN N. LERNER, OF MARYLAND, TO BE SPECIAL COUNSEL, OFFICE OF SPECIAL COUNSEL, FOR THE TERM OF FIVE YEARS, VICE SCOTT J. BLOCH, RESIGNED.

PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD

ELISEBETH COLLINS COOK, OF ILLINOIS, TO BE A MEMBER OF THE PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD FOR A TERM EXPIRING JANUARY 29, 2014. (NEW POSITION)

JAMES XAVIER DEMPSEY, OF CALIFORNIA, TO BE A MEMBER OF THE PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD FOR A TERM EXPIRING JANUARY 29, 2016. (NEW POSITION)

CONFIRMATIONS

Executive nominations confirmed by the Senate, Friday, December 17, 2010:

THE JUDICIARY

SUSAN RICHARD NELSON, OF MINNESOTA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF MINNESOTA.

DENISE JEFFERSON CASPER, OF MASSACHUSETTS, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF MASSACHUSETTS.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.